DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

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Department of State
Federal Bureau of Investigation
Federal Maritime Commission
Federal Trade Commission
International Trade Commission
Marine Mammal Commission
Nondepartmental witnesses
Radio Broadcasting to Cuba
Securities and Exchange Commission
The Judiciary

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DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, APRIL 22, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senators Weicker and Cochran.

NONDEPARTMENTAL WITNESSES

PUBLIC TELECOMMUNICATIONS FACILITY PROGRAM

STATEMENT OF BRUCE CHRISTENSEN, PRESIDENT, NATIONAL ASSOCIATION OF PUBLIC TELEVISION STATIONS

ACCOMPANIED BY BOYD ROONEY, MANAGER, KUAT, PUBLIC TELEVISION, TUCSON ARIZ.

Senator WEICKER. This morning we will begin this session hearing from our nondepartmental witnesses on the various topics in the jurisdiction of the subcommittee.

We have as our first panel of witnesses Mr. Bruce Christensen, president of the National Association of Public Television Stations. He is accompanied by Mr. Boyd Rooney, manager of KUAT, Public Television in Tucson, Ariz.

It is a pleasure to have both of you gentlemen with us this morning.

I want to set the ground rules, if I might, at the outset. I am going to strictly limit all statements to 5 minutes so that everyone has a chance to express themselves on the various matters before the committee. It is not a pleasant task to cut anyone off in the middle of his presentation, so I would appreciate it if you would consider others and keep within the time constraints.

Mr. Christensen.

Mr. CHRISTENSEN. Thank you very much, Senator. We will be brief. With us today also in the room is Mr. Paul Taft, the president of the Connecticut Public Broadcasting operation and also Dr. E. Wayne Bundy, executive director of the Rocky Mountain Corporation for Public Broadcasting.

PREPARED STATEMENT

We are testifying here today for funds for the public telecommunications facilities program. I have a full statement that I will summarize briefly and then Mr. Rooney will speak.

Senator WEICKER. All statements of our witnesses will be placed in their entirety in the record.

Mr. CHRISTENSEN. Thank you very much.

[The statement follows:]

STATEMENT OF BRUCE CHRISTENSEN

The National Association of Public Television Stations is a membership organization representing the interests of most of the nation's public television licensees in the areas of planning, research, and legislation. This statement addresses the Reagan Administration's proposed fiscal 1983 budget for the National Telecommunications and Information Administration.

We testify here for funds for the Public Telecommunications Facilities Program (PTFP). For FY1983, PTFP is authorized at $15 million. This program has had a very successful track record, but apparently "nothing fails like success" because the Administration is asking no funds for FY1983. This Administration also asked no funds for FY1982 and for FY1981. But in each instance the Congress restored a reasonable level of funds.

This year, with the authorization itself down 25% from last year, we ask for appropriation of the full $15 million authorized.

In fiscal 1981, the PTFP leveraged about $20 million in local funds with $19.7 million in federal matching grants for public telecommunications facilities construction and replacement. PTFP grants are indispensable funds for the basic equipment needed to start public television service and keep it on the air.

Only basic, essential facilities are supported by this program. The public television industry could not function without them. Studios, transmitters, cameras, film projectors, tape recorders, and video switchers are to our award-winning public television programs as flesh and blood are to the human spirit--the viscera without which creativity cannot be realized. The talent of a Beverly Sills, a Jim Lehrer, or even Big Bird goes for nought if stations haven't the equipment to capture it and deliver it in a clear signal to the public.

Public television stations need help in meeting their equipment needs because they, for the most part, are small, non-profit organizations with no working capital. Out of necessity, they devote most of their scarce funds to creating and buying programs--the "bottom line" for any public television station.

The financial pressure to produce programming and operate and maintain the equipment they have leaves no room in our stations' budgets for capital acquisition or depreciation. Since its inception, the facilities program has helped stations finance basic equipment by providing funds that match local initiatives to start or improve public television service. These matching funds have become a powerful local incentive and one of the best tools public stations have going for them. At a time when federal support for the Corporation for Public Broadcasting is falling rapidly--down $25 million in FY1983--and other federal programs (such as the National Endowments for the Arts and Humanities) are being cut as well, we believe the facilities program must be retained.

We are pleased that the Congress opened the way in last year's legislation for public television stations to allow some outside revenue-producing use of facilities funded by PTFP. In these times of serious funding cutbacks at the stations, this helps.

Facilities Needs

Television equipment needs fall into three main categories--replacement, improvement, and extension.

Replacement

Most television equipment has a relatively short useful life. For example, studio cameras last an average of eight years, tape recorders about nine-and-a-half. The transmitters that send forth public television signals die at about age sixteen.

According to figures worked out by NTIA, public television's entire stock of basic equipment of this sort is wearing out at the rate of more than $40 million per year--an amount equal to about eight percent of public television's total annual income. Our stations, if they had the money, would need to invest this much each year simply to maintain equipment at its current level of performance. We cannot over-emphasize the importance of keeping up with station equipment needs. Worn-out equipment means that some of these services intended by the Congress cannot be performed. We strongly recommend that PTFP continue to reserve some of its funds for such purposes, despite the Administration's obvious urge to provide funds only for coverage-extension, regardless of the consequences.

Improvement

Beyond this $40 million requirement for replacement of tiring equipment, our stations have a lot of catching up to do to achieve parity in home reception with commercial stations. According to a study by the Corporation for Public Broadcasting, it would take an investment of $66 million for public television stations to purchase production facilities comparable to those of the commercial stations in their areas.

Extension

Most importantly, a clear public television signal is still not available to substantial numbers of American taxpayers. In 1978, the Senate's report on the Public Telecommunications Financing Act noted that:

> "...while over 80 percent of the American population falls within the coverage area of public television, only 50 percent receive an acceptable quality signal. Since all taxpayers support public broadcasting, it is imperative that service to unserved or underserved populations be substantially increased." (emphasis added)

Although coverage has improved since 1978, millions of Americans remain unserved or underserved by public television.

Our stations' disproportionate dependence upon UHF transmission--channels 14 to 69--is a significant handicap that leads to reception problems in many communities theoretically "covered" by a public television signal. A Harris poll conducted for the Federal Communications Commission revealed that, where engineering studies predict that most or all area households are reached by both UHF and VHF stations, only 49 percent of the homes can actually receive a good or excellent UHF signal, while 91 percent enjoy good-to-excellent VHF reception. Thus, the American public's practical experience with UHF signals contradicts the theoretical projections of the engineers. Since 60 percent of public television signals are UHF, it follows that NTIA's estimate of 90 percent public television coverage considerably overstates reality. In fact, new transmitters, translators, and improvements in existing UHF signals are needed to bring an adequate public television picture to more than one-quarter of all Americans.

A final aspect of the UHF handicap also needs to be addressed. The laws of physics dictate that it takes more electric power to transmit a UHF signal to a given geographic area than to cover a comparable area with VHF. Thus, public television stations operating on UHF channels pay substantially higher energy costs than do stations transmitting via VHF. Recent advances in transmitter technology are making it possible for these UHF stations to make capital improvements that will allow them to use much less energy to transmit a technically comparable signal. However, without the PTFP facilities program, we do not know where the bulk of the funds needed for these energy-saving investments will come from.

Combining these and other needs in a thorough professional analysis, NTIA's own draft Long-Range Plan for Public Telecommunications Facilities recommended a minimum annual facilities program appropriation of $40 million. Last year, 509 public telecommunications entities submitted applications for over $105 million from the program. Only $19.7 million was available. The next deadline is May 7. We expect almost the same amount in grant requests but now only $15 million is authorized. Thus, both the need and the demand for facilities funds far outstrips the dollars available.

Relation to Public Needs

Every grant issued by the Public Telecommunications Facilities Program is a response to a local initiative for new or better public broadcasting service.

The demand for this service is both strong and growing. Public television has never been held in higher esteem by the American people. During the past year, we've received at least fifty-one major national awards for programming excellence. In January, 46 million American families tuned in to public television during a single week, a 5 percent increase over a twelve-month period. Nearly 700,000 families voluntarily pledged contributions to their local station during the month of March alone. In the face of the biggest boom in history by cable and other new media, public television is achieving new heights of public support.

The families who use public television are a broad cross-section of America, representing every income and education level. In fact, the public television audience closely reflects the make-up of the American population in each demographic category. The public television services they enjoy are vital, not elitist. The American people obviously want a serious alternative to commercial television, and to the new forms of television brought about by advancing technology. Public television *is* that alternative. The facilities program helps make its services a reality.

Attached are examples of applications in hand or anticipated from areas of this Committee's members.

Last year this Committee was concerned that staff cuts at NTIA would prevent adequate administration of the PTFP grants program. While the grants were finally processed last year, we are still aware that further staff reduction might destroy the program just as effectively as cutting its funds. We urge the Committee to assure itself that there will be adequate budget and personnel to administer the PTFP program.

The Committee has already received testimony from NTIA that various forms of new technologies will fill the urban and rural gaps in coverage not yet provided by public television transmitters. Certainly to the extent that these technologies--cable, direct-to-home satellite services, videodiscs and tapes--are available and do offer the kinds of educational and public service programs public television stations offer over-the-air--so much the better. But these kinds of programs are NOT yet provided via these other systems; these services are not yet widely available (cable coverage of the U.S. is now about 28% of the nation, with 50% forecast for 1990); few provide any *local* programs; and, such services will never be fully available to those who cannot afford their considerable added cost. To offer them now as a substitute for free public television would be a serious mistake.

The authorizing legislation (P.L. 95-567, Nov. 2, 1978) for PTFP also contains a mandate to NTIA that a 5-year plan be provided to the Congress. Such a plan would greatly aid your and our consideration of needs. We are aware--and so told this Committee--that a draft plan had been prepared over 18 months ago. But so far as we know, NTIA has not submitted the required plan. We recommend that the Committee take whatever steps are necessary to require the completion and forwarding to the Congress of this mandated plan.

Conclusion

The abandonment of the NTIA facilities program at this juncture would deny an adequate public television signal to millions of taxpaying citizens who want it. It would lead, slowly but inevitably, to a steady erosion of the facilities infrastructure upon which public stations, and the people themselves, have come to rely.

In a time of economic uncertainty we, as average citizens, share your concern about federal spending. We understand the need for economies. However, most of the Administration's budget cuts have been directed at slowing the growth of federal programs, or reducing some portion of current expenditures. On the other hand, the recommendation that the facilities program be totally erased, this year and beyond, is an extreme version of this general trend. The consequences of total elimination of the program for 1983 and successive years, would be severe. We ask that you appropriate $15 million for fiscal 1983. We believe the funds appropriated to the PTFP can go a long way toward meeting the basic equipment needs of public television, enabling us to extend our reach and continue providing excellent television service to the American people.

The Public Telecommunications Facilities Program

Examples of Recent and Pending Applications

Connecticut: The Connecticut Educational Telecommunications Corp. will reactivate two grant applications from FY1981 in the FY1982 grant round. One request is for $260,000 to go to the purchase of electronic news gathering equipment to be used statewide. The other request is for $348,900 to develop a statewide ITFS system which would interconnect twelve community college campuses around the state.

Alaska: Capital Community Broadcasting was awarded $55,875 in FY1981 to extend the signal of KTOO-TV by translator to Lemon Creek and Swiker Creek, and provide remote production capability. A grant of $26,400 was also awarded to extend the signal of KTOO-FM and upgrade the station's production capability.

Nevada: Channel 5 Public Broadcasting, University of Nevada-Reno, was awarded $815,775 in FY1981 to construct a medium powered VHF-TV station to serve Reno and its surrounding area.
Clark County School District will apply for a FY1982 grant of$15-80,000 to go to the purchase of four ITFS transmitters for use in elementary and secondary schools in Las Vegas.

Mississippi: The Mississippi Authority for ETV is applying for FY1982 PTFP funds of $1 million to set up a statewide public radio network of 8 stations.

Arizona: Community TV Project, Inc., Globe, was awarded $7500 in FY1981 to replace an inoperative translator which rebroadcasts KAET-TV, Tempe, providing service to the Globe-Miami area.
The Board of Regents, University of Arizona, was awarded $62,938 in FY1981 to replace an old 100 watt translator with a 1000 watt unit and change output frequency to a lower channel in order to cover the rapidly growing Tucson area.

Oregon: Southern Oregon Education Council received a grant of $78,798 in FY1981 to extend the signal of KSYS, public television in Medford to residents in isolated communities of the mountainous areas of southern Oregon, by translators and refurbishing the KSYS-TV transmitter.
State Board of Higher Education will apply for two FY1982 grants: 1) a $100,000 request for establishing first public television service in Bend, by moving channel 3, presently located in Salem, to Bend. (The Salem area will continue to receive public television service from Portland or Corvallis); and 2) a $50,000 request for replacement of a transmitter and antenna complex in Le Grande.

Wisconsin: The Educational Communications Board, Madison, was awarded a grant of $65,260 in FY1981 to construct two television translators to extend the state educational broadcat system to unserved populations in Grant and Adams counties in Wisconsin.
WHA, Channel 21 in Madison, was awarded a grant of about $50,000 in FY1981 to provide text information to farmers--UPI and AP farming news as well as agricultural weather reports and day-to-day market analyses. The central computer feed, established with these funds, can potentially benefit all farmers in the state. In the future, WHA hopes to expand the system into a two-way interactive system, which would allow farmers to "call up" information developed by one of the nation's most prominent agricultural institutions--the University of Wisconsin.

South Carolina: The South Carolina ETV Commission plans to apply in FY1983 for $300,000 in PTFP funds, matched with $100,000 in South Carolina funds, to install an Instructional Television Fixed Service (ITFS) system for in-school TV instruction in Charleston.

Mr. CHRISTENSEN. For fiscal year 1983, PTFP is authorized at $15 million. This program has had a very successful track record, but apparently nothing fails like success because the administration is asking for no funds for fiscal year 1983. The administration also asked for no funds for 1982 or for 1981, but in each instance the Congress restored funds to a reasonable level.

This year the authorization itself is down 25 percent from last year. We ask for that appropriation, the full amount of $15 million.

In fiscal 1981, the PTFP brought in about $20 million in local funds with the Federal match of $19.7 million. PTFP grants are indispensable funds for the basic equipment needed to start public television service and keep it on the air.

In my area of Utah, we were able to build a telecommunications facility that served the entire State based on funds we obtained from this grant and then matched with what we got from State revenue. The same experience happens across the country. I will let Mr. Boyd Rooney talk about the Arizona experience.

Mr. ROONEY. I am Boyd Rooney of Tucson, Ariz. I appreciate the opportunity to address this subcommittee.

As a general manager, I represent three public broadcasting stations operated by the University of Arizona. KUAT AM–FM and TV serve nearly 375,000 Arizona residents each week. KUAT TV reaches 46 percent of the Tucson area's TV households each week. All three stations rank high in the national public broadcasting system in terms of the percent of available audience served.

We are very proud of our success, but that is not the reason for mentioning audience figures. The reason, and the figures, relate directly to the issue before this subcommittee. In reality, the issue is not the funding of a public telecommunications facilities program. The fundamental issue is whether or not public broadcasting can continue to serve growing American audiences.

I can state without doubt that 375,000 Arizonans would not be viewing or listening to KUAT if it were not for the facilities program we are discussing.

It should be obvious that the best and most creative programing in the world is absolutely useless if it cannot be delivered to an audience. Problems and issues of local concern cannot be explored and examined without a production capability. In simple plain terms, there can be no public broadcasting without equipment. There will be no freely supported alternative program service in America without public broadcasting.

In the past 4 years, we have been fortunate to receive about $450,000 in PTFP grants. That has been matched by $570,000 in local funds for a total of $1,020,000. These figures, incidentally, reflect a far higher ratio of local to Federal dollars than the traditional PTFP 25–75 split that is normal in this program.

The equipment moneys have enabled KUAT to replace an AM radio transmitter that we think was 15 years old when it was given to us. The funds permitted the replacement of cameras whose major electronic tubes could no longer be purchased anywhere at any price. The grants provided translators to carry the KUAT signals to new audiences. The funds purchased local production and editing facilities for radio and television. In essence, the PTFP grants were fundamentally critical to our survival.

Survival is a harsh word, but it best describes where public broadcasting is today. As you well know, we face severe funding cuts to the Corporation for Public Broadcasting and, consequently, to the KUAT stations in Tucson. To some extent we can and will offset that reduction through increased local support. But we cannot survive a 50-percent reduction in general funding and a 100-percent reduction in PTFP moneys.

KUAT TV produces a local public affairs magazine program. That is not unusual in the public broadcasting system. Arizona Illustrated, the name of the program, however, is a combination of MacNeil/Lehrer and NPR's "All Things Considered," and it is produced 5 nights a week. That is unusual. The program is also one of the top 10 most popular shows on channel 6 in Tucson, along with "Masterpiece Theater" and "Nova," which most people know more about. It is truly incredible for a local program and it is terribly pertinent in this matter.

Last week a congressional committee hearing was held in Tucson on the Indian Housing Act of 1982. As you might imagine, that event did not totally dominate the local news coverage in Tucson. But an Arizona Illustrated camera crew and reporter were there. They were there because channel 6 covers local events of importance to people, individual people, and not just those events of mass appeal measured in rating points. Many, I suppose, could care less whether a Luguna Indian from New Mexico or a Papago from Arizona have decent housing. But they care, and as a society we should care.

I do not mean to be overly dramatic or theatrical with that sentence. I do, however, want you to clearly understand the significance of that hearing to this one. The camera, the microphone, the video tape recorder and the transmitter that carried the thoughts of the Luguna and Papago to Arizona were all acquired with the assistance of the public telecommunications facilities program. If that assistance stops, so too eventually will public broadcasting. If public broadcasting stops, the Luguna, the Papago, and you and I will have lost a fragile but fundamentally critical channel of communication. I do not believe any of you wish to see that American resource die. I urge you to support the PTFP program to the full $15 million authorized level.

Thank you, Senator.

Mr. CHRISTENSEN. Thank you very much, Senator.

Senator WEICKER. Is it correct that the administration wants no funding at all?

Mr. CHRISTENSEN. That is right, no funding.

Senator WEICKER. Let me say first of all, thank you very much for taking the time to come here. Second, and I can't promise that I can do this for all those who appear before the committee, but I am certainly very strongly in your camp on this issue.

Mr. CHRISTENSEN. Thank you.

Senator WEICKER. I think public television in all its respects has done a tremendous job and has been of great value to the Nation. Indeed, in terms of creativity, in terms of its integrity, in terms of its educational value, it was and continues to be an outstanding effort.

I think that this committee, and I am sure many of my colleagues in the Senate, want to see it continue in the tradition of its past. I don't know whether we will be able to get the full $15 million. I will push for it. Whether or not we have the votes remains to be seen. But in any event, I want to compliment you both as to your presentations and as representatives of a group that I think has excelled in this form of communication. Thank you.

Mr. CHRISTENSEN. Thank you very much. We appreciate being here.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

STATEMENTS OF:

GUSTAVE FRITSCHIE, DIRECTOR OF GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE, INC.

E. ARTHUR TRABANT, PRESIDENT, UNIVERSITY OF DELAWARE, ON BEHALF OF NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES

ACCOMPANIED BY FEENAN JENNINGS, PRESIDENT, SEA GRANT ASSOCIATION

Senator WEICKER. Our second panel will be discussing the National Oceanic and Atmospheric Administration's budget and various programs of NOAA. We have Gustave Fritschie, director of government relations, National Fisheries Institute, Inc.; and Mr. E. Arthur Trabant, president of the University of Delaware, on behalf of the National Association of State Universities and Land-Grant Colleges, and accompanied by Feenan Jennings, president of the Sea Grant Association.

Gentlemen, welcome. It is always a pleasure to have you here. Why don't you proceed.

Mr. FRITSCHIE. Thank you very much, Mr. Chairman. My name is Gustave Fritschie from the National Fisheries Institute. The institute, as you are aware, is a national trade association representing more than 1,200 member companies which harvest, process, and distribute fish and seafood products.

This is the fourth or fifth year in a row, I believe, I have appeared before your committee to testify on the NOAA budget. In the past we have tried to come up and support increases in important programs. Last year we had to come in and suggest the necessary compromise so as to maintain an adequate level of funding for NOAA generally and for the National Fisheries Service in particular. Your committee was responsive last year in the continuing resolution, adopted through the end of this fiscal year by the Congress, which provides about $150 million for the National Marine Fisheries Service, the segment of NOAA I am most particularly interested in.

Regrettably, I have to come before you today to oppose the administration's suggestions which would slash funding for the National Marine Fisheries Service by approximately one-third of the fiscal year 1982 funding level, or $51.7 million. They would do this by cutting out or making significant reductions in many programs, including fisheries stock assessments, fisheries grants to the States, commercial fisheries statistics and economic analysis, fisheries development programs, aquaculture program, and industry research programs funded under the Saltonstall-Kennedy Act.

The institute cannot support this "meat axe" approach to the fiscal year 1983 budget for the Service. This year, as in fiscal year 1982, many of the areas recommended for significant reductions are program areas strongly supported by the seafood industry, the Congress, the authorizing committees, and individual Members of the Congress. Once again an effort is being made to use the appropriations process to effect programmatic modifications which are not supported by the industry.

We are aware of the ongoing discussions toward the budget compromise, and in part, in that context, in view of the tight budget and the budget deficit, the industry met to come up with some thoughts on areas in the budget that are of particular concern to the industry. I would like to very briefly discuss the five or six functional areas that we think should be fully funded.

One is the MARMAP program which is involved in the collection of fisheries statistics for management plans. We recommend funding at $33 million, which is the fiscal year 1982 continuing resolution level. This data is very important. We can't manage the fisheries without the data.

A very complementary program is the economics and fishery statistics program. This also goes toward providing data for fisheries management and fisheries development. Again we urge funding at the 1982 level of $13 million.

State-Federal management, the moneys that are used for the regional fishery management councils in New England and elsewhere around the country, and the corresponding effort by the National Marine Fisheries Service to manage the fisheries. Funding is also made available under this line item for the marine fishery commissions, the Atlantic, Gulf, and Pacific Coast Commissions, which are very active on the State level. Again we recommend the base level amount of $13 million.

I think our most emphatic and strong support is for the Saltonstall-Kennedy program. As you are aware, this money is not out of the Treasury directly but is derived from import duties on fishery products. It is estimated that the receipts for this fiscal year will total $26 million. The American Fisheries Promotion Act, which was adopted last Congress, made very clear the intent of the Congress that the funds be split

50 percent toward the industry grant program and 50 percent toward the National Marine Fisheries Service and fishery development efforts. Therefore, we strongly suggest to you, Mr. Chairman, that $13 million be allocated toward the industry grant program. Those funds have been very successfully used by many foundations around the country—the New England Foundation, the Gulf and South Atlantic Foundation. NFI had its own foundation under which we are using funds for important research on mercury in seafood, new packaging techniques, new processing techniques for various species of fish. It is a very important program, and it is necessary if we are to further develop our fisheries.

Within that part of the S–K moneys used by the Government there are three major technological labs that have provided technical service. One is in Gloucester, Mass. and another one in Seattle, Wash. and the third in Charleston, S.C. A significant amount of agency expertise is located at these facilities, and the programs underway cannot be duplicated by the industry. The funding goes into fishery development and product quality, safety, and consumer services programs. We believe these labs must be continued.

The administration, I believe, would suggest the closure of the lab in Gloucester and Seattle and a small consolidation in Charleston.

While I am on the subject of closures, the administration is also suggesting the closure of various aquaculture facilities and other labs, including the facility in Tiburon, Calif., and I believe a cutback of the facility in your State, and the closure of the lab down in Galveston which covers the Gulf of Mexico. We believe there really has not been a good analysis of this.

Finally, the State grant programs totaling $8 million which provide major assistance to the States are symbolic of the effort between the States and the Federal Government to manage fisheries. So those are the major areas that we think should be fully funded.

We also strongly support the aquaculture programs on both coasts. And, in addition, while it is not in my written testimony, as in the past, we continue our strong support for the sea grant program. Many important fishery programs are funded through sea grant.

Thank you, Mr. Chairman.

Senator WEICKER. Thank you very much.

[The statement follows:]

Statement of Gustave Fritschie

Mr. Chairman, I am Gustave Fritschie, Director of Government Relations for the National Fisheries Institute. The Institute is a national trade association representing more than 1,100 member companies which harvest, process and distribute fish and seafood products. I appreciate the opportunity to once again appear before this Subcommittee and present the Association's comments on the proposed FY 1983 budget for the National Oceanic and Atmospheric Administration.

Last year, I appeared before your Committee and indicated the seafood industry's support for the tax and budget reductions submitted by President Reagan and then pending in the Congress. At that time, I stated, "... an improved economy with increased productivity, lowered interest rates, decreased inflation and higher disposable income will benefit this nation's seafood industry."

The Institute did question certain proposed reductions for the National Marine Fisheries Service, a component of the National Oceanic and Atmospheric Administration, which we felt provided direct tangible benefits to the industry and which complemented Congressional intent to develop the seafood industry. In order to accommodate what we felt were important programs, the Institute then recommended appropriate reductions in other areas of the NMFS budget for your Committee's consideration.

This Committee and your colleague committee on the House side were responsive to the positions expressed by members of Congress and the industry with regard to the budget for the National Marine Fisheries Service. The recently enacted continuing resolutions provides slightly more than $150 million for the Agency's programs.

Regrettably, a year later the industry is back to comment on an Administration proposal which would slash funding for the National Marine Fisheries Service by approximately one-third of the FY 1982 funding level or $51.7 million. This would be accomplished by significant reductions in many programs, including:

-- fisheries stock assessments;
-- fisheries grants to the states;
-- commercial fisheries statistics and economic analysis;
-- fisheries development programs;
-- aquaculture program; and
-- industry research programs funded under the Saltonstall-Kennedy fund.

Mr. Chairman, the Institute cannot support this "meat axe" approach to the FY 83 budget for the National Marine Fisheries Service. This year, as in 1982, many of the areas recommended for significant reductions are program areas strongly supported by the seafood industry. Once again, an attempt is being made to use the appropriations process to effect programmatic modifications which are not supported by the industry or the authorizing committees.

The Institute is aware that our comments on the FY 83 budget must be viewed in the context of the current ongoing negotiations between the Administration and the Congress on possible revisions to the FY 1983 proposed budget. One reason for the dramatic reduction in the proposed budget for the National Marine Fisheries Service for FY 1983 was OMB's requirement to minimize the potential budget deficit solely by cutting discretionary budget programs. It is possible that this thrust may be altered by the ongoing negotiations and may result in a more comprehensive approach to the budget deficit, including restraints in military spending, tax increases, restraints on entitlement programs, as well as appropriate reductions in discretionary program areas. Such an approach would eliminate the need to move toward a balanced budget by drastic reductions in a small segment of overall federal spending.

Even if a budget compromise is achieved, the Institute is cognizant of the continuing pressure on the federal budget and recognizes that this Committee and the Congress must make hard choices on federal funding levels for the coming fiscal year. Thus, the Institute has reviewed the proposed budget for the National Marine Fisheries Service and suggests to the Committee the following six functions which we believe must be fully funded if we are to conserve, manage and develop fisheries resources for their optimum utilization and increase the contribution of the fishing industry to the nation's economy.

These six function areas are:

(1) the collection, analysis and dissemination of information on the condition of fish and shellfish stocks;

(2) the management of fishery resources by the Regional Fishery Management Councils and the National Marine Fisheries Service;

(3) financial assistance to the states to assist in the conservation, development and enhancement of the Nation's living marine resources found primarily within state waters;

(4) the maintenance of the primary federal role for research on quality and safety aspects of fishery resources and the implementation of necessary product qualtiy, safety and nutritional research activities;

(5) the continued administration of the industry grant program funded under the Saltonstall-Kennedy Act and the related federally sponsored research and development projects also funded under that Act; and

(6) the maintenance of federal fisheries financial support services which assist in providing access to private sources of capital to finance vessel and shoreside facility construction and reconditioning.

MARINE RESOURCES MONITORING, ASSESSMENT AND PREDICTION (MARMAP) - $33,944,000

This program is the major source of data and analysis supporting fisheries management. Data acquired under this program are vital to the effective management and development of fishery resources by the Regional Councils and the Service within the 200-mile fishery conservation zone. The Institute believes that the Councils and the industry need the best and most realistic data possible, particularly as we move toward the use of more flexible and less rigid management plan. We support the maintenance of this program at the fiscal year 1983 base personnel and funding level, but do believe that to encourage the most productive utilization of this program, there is need for more effective coordination between the industry, Councils and the Service in the planning and implementation of MARMAP programs.

ECONOMICS AND FISHERY STATISTICS - $13,031,000

This program complements the MARMAP program and provides essential information to the Councils, industry and the Service for the effective preparation of management plans and the development of this Nation's seafood industry. Innovative approaches to fishery management which provides a basis for the decreasing foreign fishing depend on good economic analysis and the availability of necessary data. Likewise, domestic fishery development requires harvesting, processing and market distribution data which can only be collected effectively by the federal government. The seafood industry now pays a small fee for the information provided by the Market News program and strongly supports the continuation of this newsletter funded under the Economics and Commercial Fishery Statistics line item.

STATE-FEDERAL MANAGEMENT - $13,124,000

This program area funds the Regional Fishery Management Councils and the corresponding effort by the National Marine Fisheries Service in fisheries management. Funding is also made available under this line item for participation on the Councils by the three marine fishery commissions which are statutory members of the Councils. The FY 1983 base level was $13.1 million and this level of funding is necessary for the orderly and effective management of this Nation's fishery resources. In our opinion, the benefits received by the Nation in terms of a managed resource, a more economically viable fishery industry and the protein made available to the U.S. and the world exceed the management cost.

SALTONSTALL-KENNEDY PROGRAM - $26,000,000

The Institute strongly and emphatically supports the continued availability of the $26 million derived annually from 30% of the import duties assessed on fish and fish products for fisheries development programs. Since the early 1950's, these duties have been directed toward fisheries development, marketing and scientific research. The enactment by the Congress of the American Fisheries Promotion Act restated congressional support for this development emphasis.

Industry Grant Program - $ 13,000,000

During the past three years, more than $8 million annually has been granted to industry foundations and other private parties for innovative fisheries development and marketing projects. These projects have resulted in accelerated fisheries development efforts on all coasts. The American Fisheries Promotion Act clearly provides that 50% of the S-K receipts are earmarked for such development plans. Thus, if, as projected, approximately $26 million will be available in FY 1983, $13 million or 50% of the projection must by law be made available to industry grants.

Technological Research and Fisheries Development - $13,000,000

The remaining receipts fund the NMFS fisheries development, product quality and safety programs. A key component of this effort are the three technological lab facilities located in Gloucester, MA; Seattle, WA; and Charleston, SC. A significant amount of Agency expertise is located at these facilities and the programs underway cannot be easily undertaken by the industry. The funding for these laboratories is shared between the following line items: Fishery Development Research and Services, and Product Quality Safety and Consumer Services. The research conducted in the lab facilities is important and represents a very constructive use of S-K receipts.

Another important component of the NMFS fishery development program funded with S-K dollars is the domestic and export marketing program. Much of this work complements industry efforts to increase market development. An example is the nationally oriented "Catch America" which has introduced the American consumer to lesser known and less costly species of fish and seafood. We believe there must be a defined and limited, but essential, federal role in this area. Other important program areas include efforts to eliminate overseas trade barriers (the so-called fish and chips policy) and efforts to reduce the impact of other federal regulations on the seafood industry.

STATE GRANT PROGRAMS
P.L. 88-309 - $5,000,000
P.L. 89-304 - $3,200,000

The Institute continues its strong support for the state fishery grant programs implemented under the Public Laws 88-309 and 89-304. More than 60% of the Nation's fishery resources are harvested within state waters and there continues to be a strong need for effective interaction between state and federal fisheries management efforts. The NMFS has recognized the importance of state efforts and in testimony before the House Merchant Marine and Fisheries Committee called for closer cooperation with the states particularly where interjurisdictional fishery stocks are involved. I believe the ability to have this close cooperation will diminish if the already limited grant programs are terminated.

FEDERAL FINANCING PROGRAMS

Under Title XI of the Merchant Marine Act, federal loan guarantees are available for financing the construction of fishing vessels and shoreside facilities. The Administration has continued its efforts to impose a $25 million limit on new loan guarantees. This program has been of significant importance to the industry and, in view of the likely strong participation of the processing industry once the Administration implements the provisions of the American Fisheries Promotion Act, the Institute is opposed to the imposition of the Administration's limit.

Your close consideration of the Institute's comments is appreciated and we strongly request that the Committee make full funding available to the key NMFS programmatic areas outlined above. The seafood industry is an important segment of the United States food producing economy and represents a vital source of protein for this Nation and the world. In 1980, U.S. commercial landings were a record 6.5 billion pounds, valued at more than $2.2 billion. In 1981, the United States exported fish valued at more than $1 billion. In 1979, the most recent year for which data is available, the industry employed in the fishing, processing and wholesale businesses, more than 277,000 workers and utilized more than 103,000 vessels and boats and more than 3,600 shoreside establishments. The program areas listed above are vital if we are to wisely conserve, manage and develop our fishery resources and if we are to increase the contribution of this industry to the Nation's economy.

Mr. Chairman, this concludes my prepared remarks. If I can be of any assistance to the Committee by responding to questions, I would be delighted to do so.

STATEMENT OF E. A. TRABANT

Senator Weicker. President Trabant.

Mr. Trabant. It is good to be here, Senator. It was about a year ago to this very date that we met. Sea grant was threatened with extinction at that time. So the first thing I want to do is to thank you on behalf of the National Association of State Universities and Land-Grant Colleges and the Sea Grant Association, the president sitting to my left, for your leadership, understanding, and support of the Sea Grant Association.

Now this should be off the record, but if you should need any envelope stuffers between now and November, thousands of people all over the country and Connecticut would be happy to volunteer. [Laughter.]

There are three things I would like to verbalize on. First, I wanted to say just a word about the administration's suggestion that sea grant funding is unnecessary, that there are other places that will pick up the tab and the support.

It does appear that we only support failures, and successes are not worthy of support at the present time in the current budget. Sea grant has been a success. But it is suggested that perhaps the States can pick up the sea grant. Disregarding the fact that the sea grant programs are regional and national in character and not just State in character, I think one only has to look at the fiscal condition that most of our individual States are in to recognize that it is literally impossible for them to pick up the total sea grant program without the incentive of a Federal match.

Then it is suggested that other agencies of the Federal Government that have marine interests would pick up most of the program and much of the research, and that I say is unrealistic in my opinion because if you look at NOAA's support of university research, in just 2 years it has dropped about $30 million, from forty-some million to just a little under $13 million. So I think that is unrealistic.

Then it is suggested that the private sector—that is, business and industry—pick up the funding. That is unrealistic if one looks at just the general business climate. Also, if you look at the types of business and industry that sea grant is designed for, we are in existence to try to help the small, the beginning marine-related industries. We are that bridge to get you the expertise at the universities in research and development to work with the new small companies so that they can survive, so they can get over those hurdles that usually destroy them before they become a business. So, therefore, it is my opinion that that argument just does not hold any good sea water and should not be validated.

The second point had to do—I was going to go through a long list of accomplishments of sea grant nationally, ranging from million dollar businesses to the saving of human lives, to fish processing plants in Chatanooga, Tenn., to people who don't drown because of sea grant research on hyporthermia and so forth. But I am not going to do that. Instead, if I could, I have one of the one-sheeters, as we call them, that would add something to the written testimony earlier on sea grant accomplishments in our Nation, if I might do that.

Then, third, I wanted to say just a short word, so you wouldn't think we were becoming complacent, that we are working hard to continue improvement in the program. The first thing is to the sea grant program directors. They do meet and they do establish priorities. They establish budget priorities, research priorities, development priorities, for the Nation as a whole. It is not a spot effort, this person decides to do this and the other person decides to do the other thing. They do not do that.

In addition to that, we are working for other marine-related Federal agencies. As an example of what I mean by that, in February, at the Belmont House I think it is called, there was a conference. There were 10 university presidents there. There were representatives from the Federal Government. We now have a foundation and a framework through which this interchange and this interplanning can occur between the sea grants. So that in—if I had had 15 minutes, I would have talked about that, sir, and I would have read most of these notes.

We do appreciate your support and urge it in this particular area. Anything we can do to help you, we are ready.

Senator WEICKER. Thank you very much.

[The statement follows:]

STATEMENT OF E. A. TRABANT

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to testify before your subcommittee this morning in support of the FY1983 appropriation for the National Sea Grant College Program. I am testifying today on behalf of NASULGC and the 33 university and industry members of the Sea Grant Association.

My name is E. Arthur Trabant and I am President of the University of Delaware, a Land Grant College and one of the nation's 16 Sea Grant Colleges. I also serve as Chairman of the Marine Affairs Committee of the 140 member National Association of State Universities and Land Grant Colleges (NASULCG). I am accompanied by Mr. Feenan D. Jennings, President of the Sea Grant Association and Director of the Texas A&M University Sea Grant College Program.

Before I move into my testimony, I want to thank the Members of this subcommittee for their strong support for FY1982 funding for this program. Because of your efforts and the support of other Members of Congress, the Sea Grant Program has a $35 million appropriation for the current fiscal year rather than the $1.8 million in funds to phase out the program as the Administration proposed. In their 1982 reports to the Congressional Budget Committees, both the House Merchant Marine and Fisheries Committee and the Senate Commerce, Science and Transportation Committee have recommended that the National Sea Grant College Program be funded in FY1983.

Let me now address the arguments made by the administration to eliminate Federal support for Sea Grant, review some specific accomplishments that probably would not have been possible without Sea Grant, and close by describing some steps we have taken to improve the performance of our program.

As you are well aware, Administration spokesmen have argued that elimination of Federal support for the Sea Grant Program will not jeopardize its ability to conduct its research, advisory, or educational responsibilities. They contend that any decrease in Federal support will be made up by increases in support from other Federal, State, and local agencies, and private industry and foundations.

We have no evidence that this will be the case. We have reviewed the prospects for State support and found that few States will be in a strong enough fiscal position to support their State Sea Grant Programs without the incentive of Federal support.

The prospect that other Federal agencies, including other parts of the National Oceanic and Atmospheric Administration (NOAA), will provide support for the program, is remote at best. For example, NOAA's own projections for university research and development support support between fiscal years 1981 and 1983 indicate a precipitous decline -- from $40.6 million in FY1981 to an estimated $12.7 million in FY 1983. Based on these projections, it seems unlikely that other parts of NOAA would be in a position to support the Sea Grant Network as it has evolved over the past 15 years.

Finally, to rely on private sector support to sustain this network is also unrealistic. There are few incentives for private industries -- even in the best of economic times -- to invest on a scale needed to realize the full benefits of the Sea Grant College Network. In fact, Sea Grant has been especially effective in promoting economic development because so many marine industries are small, highly specialized enterprises which have few resources to invest in research, development, or innovation. Sea Grant, with its direct ties to university researchers space and advisory specialists, has been able to help remove many of the impediments frustrating new or small industries.

Last year you heard many examples of these kinds of benefits when the Sea Grant Task Force documented the economic contributions of the program. They were impressive, indeed. For a Federal investment of some $270 million over the 14 year history of the program, savings and income generated in 1980 alone came to an estimated $227 million.

But these large numbers, impressive as they are, tend to obscure many of the specific contributions made by the Program. Let me share some examples with you:

- Off the coast of Rhode Island, a fishing boat went down in water icy enough to kill its crew. But the crew, equipped and trained against such an emergency, survived. They gave credit to a Sea Grant marine advisory specialist, who had trained the fisherman to help prevent hypothermia and cold-water drowning. The specialist had applied some groundbreaking research on hypothermia funded by Sea Grant in Michigan and Minnesota.

- Off California, albacore fisherman have used advanced satellite "pictures" showing warm and cool water masses to home in on their catch, saving precious fuel. In North Carolina, charter boat captains have used the same technique to log a successful trip. Both groups tapped into the system through Sea Grant advisory agents, who put the fishermen in touch with sources of information, then let them do the rest.

- In New England, Sea Grant agents rushed critical information to shellfishermen about a potentially harmful algal bloom, helping reduce losses to the region's seafood industry. From the beginning, Sea Grant has focused much of its energy on answering the fundamental questions about fish.

For the answers to the many marine resource development questions Sea Grant has pulled together teams of experts in fields ranging from ecology to economics, and from aquaculture to computer modeling. In Oregon, for example, scientists have learned a great deal about the life cycle and feeding habits of the Columbia River salmon. Sea Grant teams from Maryland, Virginia, and North Carolina began tracing the almost unknown habits of the scarce valuable striped bass. Teams from Delaware, Maryland and Virginia gathered on the Chesapeake Bay learn what features in the Blue Crab's behavior might help resource managers recruit more of the prized crustaceans into the estuaries, and then into the fishing boats.

Sea Grant researchers have accummulated an impressive range of knowledge about fisheries habitats, populations, and movements. As these research findings have accumulated, they have provided a foundation upon which future work can be built. Key links between species and their habitats have become clear. Applied aquaculture began to show how shellfish hatcheries could best replenish the stocks of valuable clams, oysters, and scallops.

These are solid contributions to our efforts to develop, use and manage our marine resources. There are many more of these success stories. However, they provide no justification for complacency. The events of the past year have compelled us to look critically at our programs and at ways in which we can continue to improve them. I will mention two of these. The first is aimed at improving our ability to plan and set priorities within our programs. The second, is aimed at improving the ties between our universities and the Federal agencies with marine responsibilities, particularly the National Oceanic and Atmospheric Administration.

During the past two years the Council of Sea Grant Directors, working with the National Sea Grant Office, has become an increasingly effective vehicle for improving the administration of the program. Setting budget priorities, charting research needs, meeting opportunities, and setting program priorities. We have already conducted planning workshops in marine-related social science research and aquaculture research. Plans are underway for similar sessions on estuarine research, coastal law and policy, and in biotechnology and genetic engineering. I am especially pleased to note that the University of Delaware Sea Grant College Program will host a major workshop on seafood technology involving specialists from universities, government, and industry next month in Washington, D.C.

The second area where we have sought to enhance the effectiveness and productivity of the program has been to explore with Federal agencies, particularly NOAA, ways in which we can improve our performance. One excellent example of these kinds of efforts was a meeting at the Belmont Conference Center last February between the top administrators of NOAA and ten university presidents. This meeting provided an excellent opportunity for a candid discussion of the needs and interests of NOAA and the universities, and the ways these ties could be improved to their mutual benefits. We look forward to condinued exchanges of this kind at all levels.

In closing I want to thank you again for your strong support for the National Sea Grant College Program. I urge you to continue funding for the program in your FY1983 appropriation bill. Both Mr. Jennings and I will be pleased to answer any questions you may have. Thank you.

Senator WEICKER. I might say, you really stuck with this thing.

Mr. TRABANT. That is right.

Senator WEICKER. That is what is needed, because I know you are right.

Mr. TRABANT. Thank you.

Senator WEICKER. Sooner or later we are going to differentiate, I would hope, between Federal spending and Federal investment.

Mr. TRABANT. Right.

Senator WEICKER. The difficulty with the elimination of the Federal investment will come, you know, not this year or next. People will feel good in terms of dollars that have been eliminated from the Federal budget, but I am afraid that the real tragedy will come in the out-years as the types of investments we are talking about in this area have their results 2, 3, 4, 5 years from now, or, for lack of spending, nonresults.

Mr. TRABANT. That is correct.

Senator WEICKER. This is where the cost is going to be.

Mr. TRABANT. The real cost.

Senator WEICKER. The out-years are going to be enormous in terms of the expenses needed to catch up——

Mr. TRABANT. Impossible.

Senator WEICKER [continuing]. Especially in this area where there is a direct financial need to a nation that even now, with all the rich resources we have in terms of our fisheries, we still run behind on the balance of payments, if I am not mistaken.

Mr. FRITSCHIE. That is right. There is over a $2 million deficit in seafood. In addition, I just pointed out, in the agriculture area, the food parts of the agriculture budget have done relatively well. For some reason, however, within the Commerce Department they just don't look at fish as food, and many of the programs, including technological efforts, the aquaculture programs that should provide more fish in the future, are either zeroed out or cut dramatically.

Senator WEICKER. In any event, I wanted to compliment you for sticking with it. As I said, you will be proven right.

Mr. TRABANT. Thank you.

Senator WEICKER. It is just a matter of time.

Mr. TRABANT. I look forward to the celebration.

Mr. Jennings is very much able to speak, but we thought in terms of time that only I would speak.

Senator WEICKER. Mr. Jennings, I hate to have you come to the table and not open your mouth. [Laughter.]

Mr. JENNINGS. I just want to add my appreciation to that of President Trabant for your strong leadership and support, not only for sea grant but for the whole marine program.

Senator WEICKER. Thank you.

Mr. JENNINGS. It is great.

Senator WEICKER. We will keep at it also. Thank you very much, gentlemen. Your statements will be included in their entirety in the record.

Mr. TRABANT. Thank you.

NOAA WEATHER PROGRAMS

STATEMENTS OF:

BOBBY F. MC KOWN, EXECUTIVE VICE PRESIDENT, FLORIDA CITRUS MUTUAL

JAMES E. NEWMAN, PROFESSOR OF AGRONOMY, AGRICULTURAL CLIMATOLOGY, PURDUE UNIVERSITY

Senator WEICKER. The third panel will be discussing the budget for NOAA weather programs. Our witnesses are Bobby F. McKown, executive vice president, Florida Citrus Mutual; and James E. Newman, professor of agronomy, agricultural climatology, Purdue University.

Why don't you proceed with your statement, Mr. McKown. Everybody is under the 5-minute rule.

Mr. MCKOWN. Good morning, Mr. Chairman. I appreciate the opportunity to come and speak and make our presentation before your subcommittee today.

For the record, Florida Citrus Mutual is a voluntary cooperative trade association. Its membership consists of more than 13,255 active citrus growers. My statement has been prepared and submitted. I will summarize that in the interest of time.

As you know, Florida and the winter vegetable crop during the last 2 years have undergone back-to-back devastating freezes with Arctic weather coming into the State of Florida and reducing the Florida citrus crop by approximately 46 percent from 1981. If we had not had the frost warning service in place, and as the testimony will show, we believe that that loss would have exceeded somewhere in the neighborhood of 65 percent because of no precautionary measures.

We are just now beginning to adopt the satellite technology within the weather service in Florida. If we should lose this program, then it would pose a long-term adverse economic impact upon the Florida citrus industry.

Let me point out to you the Florida citrus grower, the average acreage in Florida is 50 acres for the total number of growers that we have. Small growers cannot afford the private weather service. In fact, we met with the weather service 2 years ago and reviewed their budget requirements, and we supported a 50-percent reduction in the weather service budget, at the level that we are now, $209,000 nationwide. We have supported that 50-percent reduction.

In addition to that, the small growers in Florida that use flood irrigation methods for cold protection. Again, energy is an important cost in their management decisions. Without the Federal frost warning service for citrus, growers cannot take chances. So they fire, flood, irrigate, and these are all not economic benefits, and the cost of food would drop.

The $209,000 budget line item is a good and proper use of growers' Federal tax dollars. We believe this is an excellent investment and one of the best investments our government is making today.

Mr. Chairman, in addition, if I might point out, just to graphically illustrate the impact this program has, a recent Florida citrus energy survey for one county only—we have 32 citrus producing counties—approximately 425 gallons of diesel fuel or its equivalent are required per acre in the production of citrus on the lower ridge in central Florida. Growers interviewed estimate that 318 gallons of diesel fuel were used per acre in frost protection. Figures were based on 3.7 nights of cold protection of 6 hours duration. The frost warning service alerts growers of unscheduled meteorological changes, and each hour's delay of firing the grove heaters on an estimated 3,670 acres would conserve approximately 128,000 gallons of diesel fuel. This is valued at over $122,000. For every hour, each hour's delay of starting wind machines, we have an additional 3,330 acres, which conserves 1,665 gallons. This amounts to 130,000 gallons of fuel or 18 billion Btu's conserved for each hour's delay.

By conserving for 1-hour delays four times during the course of the winter through the use of the frost warning service, we are able to save over 70 billion Btu's. We believe this will reduce the cost of food and it is a very excellent benefit.

The private sector, though, and many of our members now, the larger operators, do subscribe to private weather services. We have a fragmented system. If they had all the user fees, then there would not be enough user fees to truly give long-term stability to maintenance of the weather service. We must depend on the national weather service.

Another important aspect is the fluid and ever-changing commodities futures market. We need an unbiased weather service that will provide that data to us that will have a tremendous impact on the movement of the futures market. There again we strongly support this.

As you know, in Florida we have the $2.5 billion citrus industry. We have 86,000 people gainfully employed. We also have 87,000 people directly employed in the industry. For the multiplier effect, for every dollar generated in citrus, we generate $2.85 as a multiplier.

In closing, I have attached some other questions and some economic data as it relates. We have 845,000 acres of citrus in Florida. We believe that without this weather service, it would be to the long-term and short-term detriment of the food supply, the cost to the consumer, and we believe that this is one of the most important and most cost-efficient systems our Government has today. We are totally dependent on this system. We respectfully request that this continue to be funded at the level we are supporting today.

Senator WEICKER. Thank you very much.

[The statement follows:]

STATEMENT OF BOBBY F. MCKOWN

My name is Bobby F. McKown. I am Executive Vice President and General Manager of Florida Citrus Mutual, a voluntary cooperative trade association whose membership consists of more than 13,255 active Florida citrus growers, with headquarters at Lakeland, Florida.

Florida's citrus and winter vegetable growers have, do and must continue to depend upon timely information from the fruit frost warning service of the vital U.S. Weather Bureau at Ruskin, Florida. We believe that the Ruskin facility has the latest equipment and state-of-the-art capabilities to more effectively utilize the space age weather technology than any other agency or parts of the private sector. Weather forecasting at its best continues to fall short of the desired mark; however, NOAA provides the most cost efficient agricultural weather forecasting delivery system for Florida growers. In fact, we are just now beginning to adopt the satellite technology into better agricultural frost warning weather forecasting. If the Ruskin facility is scrapped, then these technological advances will be stymied and, in our opinion, would severely handicap our growers' productivity.

The Florida citrus industry consists of predominantly small growers (less than 50 acres on the average) with total acreage of 845,283 located in 32 counties. Small growers cannot afford a private weather service. The $209,000 budget for minimum temperature and frost warning weather system is cost effective, particularly in the area of energy conservation. Low volume irrigation systems are utilized for frost and freeze protection by citrus growers, particularly when temperatures forecast indicate sustained temperatures below 28° - 26°F for six or more hours. Also, growers of specialty citrus fruit utilize grove heaters for fruit protection. Fuel and labor costs to fire a grove range up to $230.00 per acre/per night. Therefore, timely Ruskin weather forecast updates are economically mandatory in order to conserve fuel, prevent unnecessary firing and determination of proper time for commencing the firing operation.

Small growers also use flood irrigation methods for cold protection; again, energy is an important cost in their management decisions. Without the federal frost warning service for citrus, then, our growers cannot take chances. So they fire, flood, irrigate, etc. without efficiencies. Costs rise, consumers and growers, packers and processors are adversely economically impacted, and all adds to the inflationary spiral. The $209,000 budget line item is a good and proper use of growers' federal tax dollars. Our industry is not subsidized, nor do we seek price supports, etc.

Mr. Chairman, Florida citrus growers sustained a 25% loss in our citrus crop during January 11 - 12, 1982, and if the frost warning service had not been available then we could have sustained up to possibly a 50% loss.

A recent Florida Citrus Energy Survey indicated that approxi-mately 425 gallons of diesel fuel (or its equivalent) is required per acre in the production of citrus on the lower ridge in Central Florida. Growers interviewed estimate that 318 gallons of diesel per acre was used on frost protection (Figures based on 3.7 nights of cold protection of six hours duration). The frost warning service alerts growers of unscheduled meteorological changes such as cloud cover, wind drift or dewpoints. Each hour's delay of firing heaters on an estimated 3,670 acres would conserve approximately 128,000 gallons of diesel fuel (valued at over $122,000). Each hour's delay of starting wind machines which protect an estimated 3,330 acres would conserve 1,665 gallons of gasoline (valued at $1,831). The combined savings amounts to about 130,000 gallons of fuel or 18 billion BTU's conserved for each hour's delay.

At this rate over one half million gallons of fuel could be conserved if a one-hour delay could be achieved on only four nights during the winter.

This represents for the four-hour delay a potential conservation of over 70 billion BTU's.

The assumed cost/benefit ratio in Polk County where approximately 7,000 acres are protected by heaters and/or wind machines is projected at 1:17 for every hour's delay of frost protection. This does not include the savings in the logistics associated with firing such as transportation costs of moving firing crews into the field nor the labor and equipment to refuel grove heaters and wind machines.

Please note these data are only for one county and we have 31 other citrus producing counties, thereby substantially escalating the savings accruing to growers and reducing cost of food to consumers.

Florida Citrus Mutual's staff has met with private sector weather services, which desire to give long-range, weekly forecasts with some direct, limited, short term telephone communications. They do not contemplate service approaching the magnitude or precision of the frost warning service; yet the quoted fees to our association for a two months service (January - February) would be $35,000 - $45,000 for this limited inadequate service, or $13,255 per month under annual contract. This is not practical as it would require approximately 10% of our total voluntary dues supported operating budget.

We have conferred with public broadcasting facilities. They are not interested in providing frequent, regularly scheduled weather forecasts or narratives and they are unwilling to read the forecast in its entirety. It is important that the forecast be received without change or editing by our grower members; because the National Weather Service staff develops narratives explaining the basis for the forecast which are unavailable from other sources.

Public and private organizations are not equipped to handle the demand for weather information.

If we could afford it - and we can't - how could we communicate these data from our collective association to our 13,255 members statewide in a timely manner that would be useful? We can't. The National Weather Service via Ruskin has and can communicate these reports via radio, TV, teletype, etc.

Mr. Chairman and members of this subcommittee, Florida Citrus Mutual supports efficiency and good management practices within all agency/governmental channels. However, we respectfully request that the Congress continue to fund the minimum temperature and frost warning forecasts, and provide the agency with a priority management directive in order for the agricultural frost warning weather forecast to continue.

Florida Citrus Mutual has already supported a 50 percent reduction of the number of professional personnel at Ruskin from eight to four meteorologists; furthermore, four staff meteorologists would permit continuing the minimum temperature and frost warning forecasts seven days a week, two shifts per day in lieu of full-time 24-hour service. Minimum temperature and frost warning services are important in pre-freeze preparation and vital in post-freeze evaluation of damage to determine juice loss, fruit loss, etc. To eliminate this vital service would deal a severe blow to an industry that is a linchpin of Florida's economy, and set in motion waves crashing against other indirectly affected industries and services.

The Florida citrus industry is a $2½ billion industry; it keeps 86,000 people gainfully employed directly, with another 87,000 indirectly employed. It is our state's second largest single industry and provides stability to our state's economy. For each citrus dollar generated, our multiplier effect is $2.85.

Florida Citrus Mutual does not believe the frost forecast service to be a direct support program for a single industry; it benefits all U.S. citizens. The economic well-being of the agricultural industries of Florida is of direct and major importance to hundreds of thousands of employees not only in the fruit and vegetable industries, but also to those whose livelihood depends upon the serving of these industries.

During 1981 and 1982 the Florida agricultural industry suffered back-to-back devastating freezes and certainly damage would have been far more extensive had we not had the Ruskin Weather Bureau in operation.

In summary, the Ruskin station personnel are of vital importance to protection of the multi-billion dollar investment Florida growers have in more than 845,000 acres of citrus groves, not to mention the major property values invested in Florida's unique tropical fruit and foliage industries. Florida Citrus Mutual recognizes and appreciates the need to economize in government, but we also continue to believe that after additional evaluation, total abolition of the important fruit frost warning service would be adverse to a major segment of Florida's economy. We respectfully request that you support the continuation of the frost warning service.

Following my testimony before the House Subcommittee on Natural Resources, Agriculture Research, and Environment of the Committee on Science and Technology, the Subcommittee Chairman submitted the following questions for further clarification, and these questions along with Florida Citrus Mutual's responses are attached for your ready reference.

If you have any additional questions, I would be happy to respond.

Thank you.

QUESTIONS SUBMITTED TO AND RESPONSES OF MR. BOBBY F. McKOWN

1. Does the citrus industry believe that over time the private sector would adapt and learn to be as effective as the National Weather Service in providing fruit frost advisories?

No, Florida Citrus Mutual does not believe that the private sector can or would ever reach the degree of effectiveness of the National Weather Service in providing fruit frost advisories. First, they do not have the equipment nor the capital to maintain and utilize satellite, micro stations, etc. Most of the private sector services depend upon facilities like Ruskin for raw data and feeder systems for their evaluation and forecasts.

Florida Citrus Mutual also believes that if a firm had all of the agricultural frost service business, the total fees would not provide economic stability for long term involvement and business continuity. There would be many services, fragmented and less than capable of providing detailed accurate narrative frost service data. A big, big problem is how to communicate accurate data to growers in a timely manner! The private sector cannot where the U.S. government can.

2. What are the possibilities that the growers might be able to subsidize the operation of the Ruskin station?

There are possibilities that citrus growers could subsidize the Ruskin operation; however, we do not have statutory taxing authority. Cattle, vegetables, ornamentals, nurseries, foliage operators, etc. would have the benefit of the service and we do not know of any viable economical means to collect equitable fees. The collection system would possibly be more expensive than the service. Florida citrus growers already pay for the service in federal taxes and in fact this is one of the very few services available to our members. We are not subsidized nor price supported.

3. How large are the cost savings, state-wide, from the fruit frost services currently provided by the Ruskin station?

The Florida citrus industry sustained a 25% loss in the citrus crop during January 11 - 12, 1982, and if the frost warning service had not been available, the loss sustained could possibly have been as high as 50%.

A recent Florida Citrus Energy Survey indicated that approxi-mately 425 gallons of diesel fuel (or its equivalent) is required per acre in the production of citrus on the lower ridge in Central Florida. Growers interviewed estimate that 318 gallons of diesel per acre was used on frost protection (Figures based on 3.7 nights of cold protection of six hours duration). The frost warning service alerts growers of unscheduled meteorological changes such as cloud cover, wind drift or dewpoints. Each hour's delay of firing heaters on an estimated 3,670 acres would conserve approximately 128,000 gallons of diesel fuel (valued at over $122,000). Each hour's delay of starting wind machines which protect an estimated 3,330 acres would conserve 1,665 gallons of gasoline (valued at $1,831). The combined savings amounts to about 130,000 gallons of fuel or 18 billion BTU's conserved for each hour's delay.

At this rate over one half million gallons of fuel could be conserved if a one-hour delay could be achieved on only four nights during the winter.

This represents for the four-hour delay a potential conservation of over 70 billion BTU's.

The assumed cost/benefit ratio in Polk County where approximately 7,000 acres are protected by heaters and/or wind machines is projected at 1:17 for every hour's delay of frost protection. This does not include the savings in the logistics associated with firing such as transportation costs of moving firing crews into the field nor the labor and equipment to refuel grove heaters and wind machines.

Please note these data are only for one county and we have 31 other citrus producing counties, thereby substantially escalating the savings accruing to growers and reducing cost of food to consumers. Florida citrus acreage: 845,283.

4. Has Florida Citrus Mutual been in contact with fruit growers in other areas of the country, such as California, Texas, and Washington? What are their plans for obtaining fruit frost services in the future?

Yes, Florida Citrus Mutual has been in contact with fruit growers and organizations in the states of California, Arizona and Texas. All of us researched the possibilities of alternatives in the event the national frost warning service should be discontinued, and in the early stages we all were optimistic that possibly the private sector could be utilized on a sound basis. However, after full review, California, Arizona, Texas and Florida jointly concurred that the national frost warning service is the most efficient and viable delivery system available.

It is my understanding that the other states would find themselves pretty much in the same situation that Florida faces; i.e., a fragmented weather service, lack of competence to provide detailed accurate data in a timely manner for growers' use. Furthermore, the private sector systems would not be available to small growers because of cost.

5. Granted that the citrus industry in Florida is an enormous enterprise, why should it receive 'preferential treatment from the government in relation to growers of other crops? Or does Florida Citrus Mutual believe that growers of other crops already receive specialized services?

Yes, the Florida citrus industry is a substantial contributor to the economy of the State of Florida. Florida Citrus Mutual does not believe that the continuation of the national frost warning service can be nor should be considered as preferential treatment from our government to citrus growers. In fact, the frost warning service is utilized by almost every agricultural segment in Florida. Through this service we are able to protect our crops, thereby reducing the cost of food to the American consumer.

In addition, by protecting the crop, we are able to keep far more people employed - 86,000 directly and another 87,000 indirectly; thereby they are able to pay local, state and federal income taxes and contribute to the gross national product of our economy. We also believe that the government frost warning service is the only available unbiased service of accurate data. This is a necessity for the orange juice commodity futures market.

The Florida citrus industry is not subsidized nor price supported and there are many other segments of our society who currently receive expensive specialized services.

Senator WEICKER. Senator Chiles appeared before our committee earlier and also testified much as you have here today. We will certainly take a very hard look at it.

Mr. MCKOWN. Thank you, sir.

Senator WEICKER. Professor Newman?

STATEMENT OF JAMES E. NEWMAN

Mr. NEWMAN. Thank you. First I want to thank you for inviting me here. My name is James Newman. I am faculty adviser and agricultural meteorologist and climatologist to a rather large NOAA national weather service, the NOAA Weather Center at Purdue University, representing five States. The main purpose of my testimony is to outline the need for agricultural weather data.

Agricultural weather data is used in many ways besides forecasts. Forecasts are really only, some would say, the windowdressing of the kind of operation that affects big agriculture in the Midwest. When I am talking about big agriculture, in these five States, we have $15 billion annually gross. This is big agriculture as we know it. It is the kind of thing that pays off in foreign exchange, about $30, $40 billion a year.

The thing that I would like to say is that we have had a lack of comprehensive agriculture programs at the Federal level, I am talking about the whole Nation, for the last 30 or 40 years. This is probably the only area that really has not developed in depth like many other areas.

Basically I would say agriculture weather data needs fall in two categories. One, as you have just heard, is the catastrophic category, and the other is the slow impact, day by day, the assessment day by day.

Many have raised the question why can't the private sector take a very active participation in this agricultural weather service? Well, my advice on that is there has to be a basic agricultural weather system before the private sector can react. If you cut out this basic agricultural weather system, the private sector is left pretty much, shall we say, without any way to respond.

I think another point I made in my testimony is that the computer age is coming to the farm level. Depending on what survey you want to believe, there are some 20,000 to 30,000 computers on individual farms today. The use of computers on farms at the moment is primarily for accounting. But waiting in the wings of many, many agricultural experiment stations across the country are dozens of computer models that require, or most of them require weather data. If that weather data doesn't come about either publicly or privately, it would be duplicated in many ways. So I would like to make a plea that the computer age on the farm is really ahead of us, just ahead of us. What we will have is an individual farm computer interacting with the main frame computer and running out various kinds of management decisions. This is just ahead of us. Much of the weather data needed for that will have to come from various agricultural weather services, whether private or public. Certainly some of them have to be public, at least in the small farms.

Two examples of that are pest management and irrigation. Pest management is already onstream. The other, irrigation, most of the new irrigation systems or many of them are patterned. Many of them are very water efficient. There is weather efficiency and water efficiency. This requires the application to be programed. Many of them are going to come out in the next few years with microcomputer controls. Much of the data that will control that is weather data-oriented. So the whole western part of the United States is starting with weather or data systems, which is essentially the kind of thing the weather service is providing.

Finally, the recommendations. I think the NOAA National Weather Service would make a great mistake to discontinue all of these services for agricultural, forestry, and fruit frost in fiscal year 1982; at least to extend them for another year and give somebody a chance to pick up the pieces, so to speak.

I think that the Department of Commerce and the Department of Agriculture should develop a national plan for forestry, agriculture, and fruit frost systems across the country on a uniform basis by 1984, because the technology is coming that is going to demand that from some sector, whether we do it at the Federal level or some other level. It is already on line, so to speak.

That is the nature of my testimony. I won't take much more time than that, unless you want to ask me some questions.

PREPARED STATEMENT

Senator WEICKER. Thank you very much, gentlemen. I don't have any questions at this time. Both of your statements will be included in their entirety in the record. I thank you very much.

Clearly the technology that is involved here has a great deal to do with agricultural success, which, in turn, as you indicated, is one of the great assets this Nation has.

Mr. NEWMAN. The cost effectiveness is anywhere from 10 to 100 by anybody's figures.

Senator WEICKER. Thank you.

Mr. NEWMAN. Thank you, sir.

[The statement follows:]

STATEMENT OF JAMES E. NEWMAN

Introductory Remarks.

The inputs to a food producing system consist of man-created resources and natural resources. The human resources in the form of continued education as it reflects in management, the genetically improved biological systems, and the many manufactured inputs are the main man-made resources. The natural resource inputs consist largely of land, water and air or atmosphere.

Substantial technological progress has been made in most man-created and natural resources during the last several decades, but progress in atmospheric technology as it applies to agricultural production has been sporadic at best since the transfer of the nation's weather services from the Department of Agriculture to the Department of Commerce in 1941. The lack of progress in this area is in no small way caused by the lack of a sustained comprehensive agricultural weather and climate program at the federal governmental level.

Agricultural production in the United States is likely the most technically advanced food system in the world. This technically elite system of food and fiber production came to be largely through an effort of federal, state and local governmental support of research, education and service. Much of this science and technological development has not been based on spectacular discoveries, but rather on small step-by-step developments over many years. For this central reason, sustained programs in agricultural research, education and service are very necessary.

What is Needed?

A well-organized publicly supported program of agricultural weather and climate at the federal level must precede the private sector development in this area. Such a program must include support for research, education and service similar to other public programs of development in agricultural technology.

Why is This So?

The agricultural weather and climatic data needed for the development of an agricultural weather and climate program in most of the agricultural production areas in this nation, do not currently exist.in proper density.

In other areas of weather technological practices, such as the general public daily forecasts, severe weather warning, flood forecasting and the like, the necessary data, analysis, and interpretations are routinely prepared by the National Weather Service for use by the private sector, the TV, the radio and the newspapers.

In the case of agriculture no such arrangement exists across the nation for two reasons: one, agricultural weather and climate data needs are often specific to local or regional areas. These requirements are related to agricultural production enterprises in the area concerned. This in turn, requires two-way communication and special weather forecast information preparation for use by the mass media. Two, the data bases needed do not exist except in some areas where such developments have taken place at state and local levels through cooperative programs with the National Weather Service. Currently, all these programs are targeted to be discontinued by the National Weather Service.

Can Private Weather Services Provide Adequate Weahter Information for Agriculture?

The answer to this question is "NO" except in a few special areas. This is particularly true at the basic production level on the FARM!

First, there are special data needed for agricultural forecasts that do not currently exist in most areas. Second, these data are needed on a near real-time basis as well as historically. This means that private weather services must equip, operate, and duplicate a long-line system of communications for data reporting and forecast dissemination at farmer-consumer expense. In any case, a system of private agricultural weather services will likely produce an additional well hidden cost to the consumer. Three, the current and past weather impacts on crops, pests and livestock are cumulative. The day-to-day, week-to-week, month-to-month and season-to-season evaluation of weather impacts on agricultural production is likely the most valuable information produced by an agricultural weather and climate service. These impact evaluations are very useful in management strategies at all levels within the agricultural industry, from the individual farmer to international grain marketing. Further, these impact evaluations can be used in computer model predictions in conjunction with "runout" weather forecasts or seasonal climate contingencies. Such procedures can approximate agricultural production trends for weeks to months ahead. Such forecast information can be used in developing individual marketing strategies at the farm level. In these areas the development of private agricultural weather and climate advisory services are likely to take place if the necessary data bases are provided through a publicly supported national, state and local agricultural weather and climate service.

Summary Statements

In my view, the federal government has a basic responsibility in the creating of the necessary weather data for near real-time agricultural production impact evaluation at all levels of need. A recent National Research Council report entitled, "Weather Information Systems for On-farm Decision Making". states this view in its first recommendation. If this need is not met, we will surely end up with systems of weather data duplications by both private and publicly supported efforts during the rather rapid development of the "computer age" for agriculture in the 1980's. This duplication will very likely cost the average citizen both as a taxpayer and as consumer.

Recommendations

1. That the existing agricultural, forestry and fruit-frost weather services offered by the Department of Commerce, NOAA, National Weather Service be continued through fiscal year 1983.
2. That a 15-member committee be appointed by the secretaries of Commerce and Agriculture to draw-up and recommend a plan for an agricultural weather and climate program in all food, fiber and

forest producing areas of this nation. This program should include the research and educational needs as well as service.

3. The 15-member committee should be structured in the following suggested manner:

2 members from the Department of Commerce, NOAA, National Weather Service

2 members from the Department of Agriculture

3 members from the academic community with two specifically in the area of agricultural meteorology or climatology

8 members from the agricultural industry to include the following:

1 member citrus fruit industry

1 member cotton industry

1 member forest industry

1 member wheat/feed grains industry

1 member oil seed/special crops industry

1 member livestock industry

1 member irrigation industry

1 member Agricultural Research Institute

INTERNATIONAL EXCHANGE PROGRAM

STATEMENTS OF:

JOHN RICHARDSON, CHAIRMAN, THE CONSORTIUM FOR INTERNATIONAL CITIZENS EXCHANGE

C. PETER MAGRATH, PRESIDENT, UNIVERSITY OF MINNESOTA

PEGGY BURKE, PRESIDENT, COUNCIL OF INTERNATIONAL PROGRAMS, CLEVELAND, OHIO

REV. T. BYRON COLLINS, S. J., ASSISTANT TO THE PRESIDENT, GEORGETOWN UNIVERSITY

ACCOMPANIED BY:

NANCY McCORMACK, ASSOCIATE DIRECTOR, DIVISION OF INTERNATIONAL EDUCATION, UNIVERSITY OF TENNESSEE

HENRY S. ENCH, ASSISTANT TO THE VICE PRESIDENT FOR ACADEMIC AFFAIRS, CENTRAL CONNECTICUT STATE COLLEGE

MARY ELIZABETH GWIN, OFFICE OF THE FOREIGN STUDENT ADVISORS, DIVISION OF STUDENT PERSONNEL, UNIVERSITY OF MISSISSIPPI

Senator WEICKER. Our fourth panel of witnesses this morning will be discussing the funding for international exchange programs. We have with us the Rev. T. Byron Collins of Georgetown University, also Dr. Henry Ench of Central Connecticut State College; and Mary Elizabeth Gwin from the University of Mississippi. We also have with us John

Richardson, chairman of the Consortium for International Citizens Exchange; Dr. Peter Magrath, president of the University of Minnesota; and Peggy Burke, president, Council of International Programs, Cleveland, Ohio.

I gather Dr. Magrath has to take a plane.

Mr. MAGRATH. Yes.

Senator WEICKER. Go right ahead.

STATEMENT OF DR. PETER MAGRATH

I would appreciate it if everyone would observe the time constraints. Why don't you proceed, Dr. Magrath.

Mr. MAGRATH. Thank you, Mr. Chairman. My name is C. Peter Magrath. I am privileged to serve as president of the University of Minnesota, but I am here as chairman of the Commission on International Education of the American Council of Education, which is the largest higher education association in the country.

First I want to express a word of appreciation, in effect to Congress, for their support for the educational and cultural affairs programing of the International Communication Agency in the budget battle, the one of last fall. Senator Weicker, I want to specifically thank you. Those of us who care about these kinds of programs know precisely what you did and where you stood, and we are very grateful to you.

I am concerned about a pattern of growing neglect with regard to international education and international exchange. I have a single-line thesis and that is that it is harmful to our national security.

I am here specifically, of course, to support the full funding of the President; that is the $100.6 million for educational and cultural affairs programing in ICA.

I would like to suggest that we might just spend 3 or 4 minutes looking at the policies of other nations, allies, hopefully, and adversaries alike, for contrast as to what is happening around the world.

The United States, in terms of educational exchanges and Government support, trails all of its major European allies and Japan. France and West Germany are spending 1 percent of their national budgets for educational and cultural exchange. We are spending one-tenth, less than one-tenth of 1 percent.

Senator WEICKER. What are these other nations spending?

Mr. MAGRATH. They are spending 1 percent of their national budgets on these kinds of exchanges. We are spending less than one-tenth of 1 percent.

Perhaps even more to the point, let's compare Soviet and U.S. expenditures. The contrast is very intense. As a percentage of their national budget, the Soviet Union is spending in terms of academic exchanges twice as much, double, what we are doing.

In terms of expenditures in international education, cultural, and information programs, the USSR is outspending us 4 to 1.

In terms of educational exchanges, they sponsor 10 times the number of students and scholars as does the United States.

I would like to suggest the Soviet Union does not make these expenditures out of a philanthropic sentimentality. At the very time when we are dismantling our arsenal of international programs, other countries are strengthening theirs. At the very moment when other countries are spending more of their money and a larger percent of their budget on these kinds of exchanges, we are reducing ours.

In short, as others have suggested, we have embarked upon a course of unilateral disarmament. By the way, there is no verification or checks that that is the thing. I think this policy hurts our most basic national security and foreign policy interests. It seems to me if we are to protect our national interests, we must broaden our definition of national security to include international programs.

I think we also have to recognize an unavoidable reality that perhaps bothers some. I do not believe that we can purchase national security only with MX missiles. I am not one who is in favor of disarmament or unilateral disarmament. But I don't think we are going to get security that way. I don't think we can caulk shut every window of vulnerability with the B-1 bomber.

Instead, if but a fraction of the currently proposed, what is on the table, $1.6 billion defense budget for the next 5 years were made available to international education and exchange, we would both expand our national security and enhance our international image. It seems to me that any nation that is willing to spend $876 million a day or $608,000 a minute on national defense perhaps can afford $100 million a year on programs to promote international cooperation in education. Any country that is willing to invest $4 a day on national defense for every woman, every man, every child should be willing to invest less than a penny a day on programs designed to promote international understanding.

Senator Weicker, there are lots of places in town where university presidents appear to testify because there is a good bit of money involved. Frankly, as everyone knows, there are very few votes for Senators and Congressmen in this arena. It is not a very popular one with many people. But I sincerely believe in a very hard-nosed way that support of the international education and exchange programs makes good foreign policy sense, and I think it makes good national security sense, and I hope that you will be able to convince your colleagues it also makes sound commonsense.

Thank you for listening to me.

Senator WEICKER. Thank you very much, Dr. Magrath. If you have a plane to catch and you want to leave, you go ahead and leave.

[The statement follows:]

STATEMENT OF C. PETER MAGRATH

My name is C. Peter Magrath. I am President of the University of Minnesota and Chairman of the Commission on International Education, a committee sponsored by the American Council on Education which is the largest higher educational representative body in this country.

I am here today to make a simple plea, to express a simple note of gratitude, and to share a simple fear.

My plea is that this committee and this Congress continue to provide funding for international education and exchange programs. At a very minimum, this means supporting the $100.6 million request for educational and cultural exchanges as proposed by the International Communication Agency for FY 83.

My expression of gratitude is prompted by the support that members of this committee and this Congress demonstrated last fall when the Educational and Cultural Exchange Program was threatened by a $44 million budget reduction, or two-thirds of the total cuts proposed for ICA. Because of your action, those cuts were applied in a more equitable fashion. Although the Educational and Cultural Exchange Program did not enjoy the entire $100 million authorized by the Congressional continuing resolution, the program was able to limit its losses to $12 million of the authorized funds.

Finally, my fear — and it is a concern that I would like to concentrate upon in my following remarks — is that the United States has neglected international education and exchange programs in ways that ill serve either our foreign policy or our national security interests. To continue such neglect, I am afraid, will only seal off new opportunities for global cooperation and might well open up new windows of vulnerability.

It is a plain fact that the United States has neglected international education and exchange activities. These programs have never enjoyed a priority status among Washington decision makers, and even that limited support has eroded in the past ten years. Despite the defensive victory last fall when Congress rescued the Educational and Cultural Exchange Program, there has been an overall retreat in support for international education efforts.

In some instances, such as the Fulbright Scholarship Program, budgets have been slashed by 40 percent since 1965. Whereas Fulbright expenditures in that year totalled $76 million and supported 9,000 participants, today the comparable figures are only $48 million and 5,000 participants.

In other instances such as the Title VI International Education Program or the 1969 International Education Act, the authorized funds were not released either in part or entirely by Congress.

But if the long-term history of funding for international programs is a disappointing one, then the more recent history must be considered as downright grim. The past several years have given rise to an accelerated and unprecedented erosion in support for international programs. One recent sign of that retreat was last year's proposed list of cuts in the Fulbright Exchange Program as well as the proposed elimination of the Hubert Humphrey Fellowship Program, the International Research and Exchange Board, the International Student Exchange Program, the Committee on Scholarly Communication with the People's Republic of China, and a number of other international activities affecting no less than 75 programs or countries.

Another sign of that retreat is the Administration's current proposal to cut the Department of Education's Fulbright Hays Program by 69 percent in FY 83. This would leave the program with a $1.5 million budget, or some $4.2 million less than it currently enjoys.

A third recent and disturbing sign of retreat is the Administration's current proposal to reduce Title VI international education activities from a 1981 level of $21 million to a 1983 level of $8.8 million. That would turn back the clock some two decades, restricting Title VI to a budget it had in 1958.

There is, I submit, a danger and a shortsightedness in making such reductions, and one need only look to the present policies of other nations, both ally and adversary alike, for a sobering contrast.

— In terms of the percentage of the national budget committed to academic exchanges, the United States ranks only sixth in the world, being surpassed by all of our major economic competitors.

— In terms of government support for educational exchanges, the United States again finds itself trailing its major European allies and Japan. For instance, France and West Germany spend one percent of their national budgets for educational and cultural exchange, the U.S. spends less than 0.1 percent.

— In terms of comparing Soviet and U.S. expenditures on such activities, the contrast is even more intense.

As a percentage of its national budget committed to academic exchanges, the Soviets spend twice as much as we do.

For expenditures on international education, cultural, and information programs, the USSR spends four times what we do.

And in supporting educational exchanges, the Soviet Union sponsors ten times the number of students and scholars as does the U.S.

The Soviet Union, I suggest, doesn't make these expenditures out of philanthropic sentimentality. Instead as the House Committee on International Relations recently concluded: "In Third World Cultural relations, the Soviet leadership appears to have placed its greatest hopes for ultimate success in academic exchange programs."

At the very time when the United States is dismantling its aresenal of international programs, other countries are strengthening theirs. At the very time when other countries are spending more dollars and a larger percentage of their budgets on international exchanges, we are reducing ours. In short, we have embarked upon a course of unilateral disarmament, a policy that threatens some of our most basic national security or foreign policy interest.

If we are to protect our national interest, we must broaden our definition of national security to include international programs. As disturbing as the thought might be, we must also recognize an unavoidable reality: we cannot purchase national security with MX missiles alone and we cannot caulk shut every window of vulnerability with a B 1 bomber. Instead, if but a fraction of the currently proposed $1.6 TRILLION defense budget for the next five years were made available to international education and exchange efforts, we would both expend our national security and enhance our international image. Any nation that is willing to spend $876 million a day or $608,000 a minute on national defense can afford $100 million a year on programs to promote international cooperation. And any country that is willing to spend $4 a day on national defense for every man, woman, or child should be willing to invest less than a penny a day on programs designed to promote international understanding.

In summary, Mr. Chairman, support for international education and exchange programs makes good foreign policy sense, and it makes good national security sense. I hope that you will convince your colleagues that it also makes sound common sense.

STATEMENT OF JOHN RICHARDSON

Senator WEICKER. Let me see who is around here.

Mr. RICHARDSON. I am John Richardson, chairman of the Consortium for International Citizens Exchange.

Ms. BURKE. I am Peggy Burke, president of the Council of International Programs.

Ms. GWIN. Mary Elizabeth Gwin, University of Mississippi.

Mr. ENCH. Henry Ench from the Central Connecticut State College.

Ms. MCCORMACK. Nancy McCormack from the University of Tennessee.

Senator WEICKER. Thank you. Please proceed.

Mr. RICHARDSON. Mr. Chairman, thank you for letting us come before you, and thank you in particular for your own personal and subcommittee actions of last fall which I think made the difference in a budget situation which would have very seriously crippled a great many private organizations and programs in this country if it had gone the way it looked as though it was going this year.

Now, although the ICA, International Communication Agency, has not found it possible to comply fully with the request from the Senate Appropriations Committee to fund the educational and cultural affairs activities at $100 million, they are not doing that, but they are in effect hoping to do that next year. And I think it is entirely due to the leadership particularly in this subcommittee and the overall Appropriations Committee that this has occurred.

Unfortunately, these are soft budgets. They are easy to cut. In the case of consortium organizations, eight of them, all citizen-based, nonprofits, utilizing the services of tens of thousands of volunteers around this country and around the world, two of the organizations don't get any money from the Government and are happy not to. Six of us do in varying amounts.

In the case of my organization, Youth for Understanding, it amounts to less than 1 percent of $20 million a year, but it is a very important 1 percent. In the case of some organizations such as the Partners of the Americas, for example, it is a very substantial amount of their budget. And in the current year, to use that example, they have received $100,000 out of $280,000, which has been their norm and was their request this year. They have no assurance they will get the other $180,000. They are already in very severe trouble as a result of not receiving what they had anticipated. This is not anything, I think, intended, but it is perhaps a new administration trying to learn how to deal with these organizations. We are having to suffer through a learning period.

I do believe that in this case there is strength out there in the communities to support these organizations at 10, 20, and 30 times the dollars the Federal Government puts in. The Federal Government has to put in something or else 20- or 30-year-old organizations will go down the drain. That is quite apparent to me.

As assistant secretary of state for educational and cultural affairs for 8 years, I got pretty familiar with these problems and these are all fragile organizations. They very desperately need the very small amount of help they get from the Federal Government.

My message is simply to ask your continued interest in this field, and in particular your concern for those organizations which receive some modest amount of money from the Office of Private Cooperation in the International Communication Agency. That is where at the moment we are having a little problem.

Thank you, Mr. Chairman.

Senator WEICKER. Thank you.

[The statement follows:]

STATEMENT OF JOHN RICHARDSON

I am pleased to have this opportunity to appear before you today in support of the budget for educational and cultural affairs which is contained in the FY 83 Appropriations Request of the U.S. International Communication Agency. It is my belief that $100 million dollars is the minimum which should be provided the Agency to enable it to carry out its important educational and cultural affairs programs.

In making these remarks, I am speaking as Voluntary Chairman of The Consortium for International Citizen Exchange. I am also bringing to my point of view some experience in international communications. My background includes responsibilities as President and Chief Executive Officer of Free Europe, Inc. (Radio Free Europe), 1961-68; U.S. Assistant Secretary of State for Educational and Cultural Affairs, 1969-77, and Director of a Program in Public Diplomacy at The Center for Strategic and International Studies, Georgetown University, 1977-78. Since 1978, I have been President of Youth for Understanding, Inc., one of the organizations which comprise The Consortium for International Citizen Exchange.

In addition to YFU, The Consortium includes the following organizations:

American Field Service International/Intercultural Programs
The Experiment in International Living
The Friendship Force
National Council for International Visitors
Partners of the Americas
People to People International
Sister Cities International

The Consortium members are all community-based organizations which promote increased understanding among peoples of different nations and cultures by means of the mutual exchange of ideas, information, technical assistance and, most importantly, people. Each organization has its own agenda, its specific way of working toward this goal. They all share, however, a commitment to the importance and significance of youth and adult exchange.

I might add that six of the Consortium organizations receive some financial support from ICA. In many cases, this support amounts to less than 1 % of the organizations' budget. Two of the organizations receive no Government support.

The Consortium has followed with interest the controversy which arose in the fall of 1981 over the appropriate level of funding for the Educational and Cultural Affairs Directorate of ICA. It notes with appreciation the role played by Chairman Weicker and the members of this Subcommittee in calling for an increased level of funding for ECA during the Senate Appropriations Committee deliberations. We are also aware of Senator Hatfield's directive, in his capacity as Chairman of the Appropriations Committee, that $100 million of the funding allocated to ICA under the December 1981 Continuing Resolution should go to Educational and Cultural Affairs.

Unfortunately, ICA has not found it possible, for budgetary reasons, to comply with the Senate directive. FY 82 funds for ECA are estimated to be in the neighborhood of $88 million dollars. This lower level of funding has meant that some subdivisions of ECA have seen reductions, in absolute terms, from the funding levels of previous years. Perhaps the most dramatic reduction has been in the funds allocated to the Office of Private Sector Programs, which has gone from $10 million in FY 81 to an anticipated figure of between $6 and $7 million in FY 82. Since it is our understanding that such reductions do not represent policy decisions, but rather stem from monetary considerations, we are concerned that the Agency should, in FY 83, be provided with a level of funding which will enable it to strengthen and expand ECA programs, rather than curtail them. We also think it important that, within ECA, the budget should be allocated in such a way that no one subdivision of the Directorate is hindered in carrying out its program.

It is these two points:

- that ICA should be provided a minimum of $100 million dollars for Educational and Cultural Affairs in FY 83
- that the funding should be allocated judiciously among ECA subdivisions

that I would like to stress today.

In addition, I would like to share with you, for the remainder of my time, the reasons behind my strongly-held belief that ICA's use of private organizations to carry out its mandate in educational and cultural affairs represents one of the best investments which the Agency could make.

When ICA contracts with, or awards a grant to, private, non-profit organizations, it is not giving these organizations a "handout." Rather, it is making a solid business decision to use the knowledge and resources of existing organizations specializing in various kinds of educational and cultural affairs programs to achieve the mutual goals of both the organizations and of the ICA. By obtaining the assistance of private organizations to carry out its program, ICA links the Government to a broad cross-section of institutions and organizations throughout the United States. The Government gains access to, and can tap the expertise of, America's private sector, with all its diversity and strength. Certainly, this kind of linkage between public and private sector is one of the most cost-effective, sensible uses of Government resources imaginable.

Another virtue of ICA's involvement with private organizations is that it brings Government to the people and insures that average citizens assume some of the duties and responsibilities for achieving Governmental goals. As an example, let me cite the organizations in The Consortium. All of our organizations are community-based: that is, they have as their basic unit of operation the local volunteer committee, whether it be an international visitors committee, a committee to link an American state with a state in another country, a high school exchange committee--and so forth. The vital element making up these committees is the citizen-volunteer.

Here are a few illustrative statistics:

- * Consortium organizations operate in some 5,000 U.S. communities
- * Consortium organizations are represented by approximately 5,816 local units
- * Consortium volunteers in these units are one-half million strong!

Volunteers are involved in all phases of operations, from serving as host families to providing technical assistance. It means a great deal to these volunteers, and to their communities, that they are working in the field of educational and cultural exchange, something important to the national interest. The fact that their organizations and their programs are recognized by the U.S. Government, by way of ICA, encourages these volunteers. Even more significantly, the fact that there is Government support to some

support to private, non-profit organizations has a catalytic effect and results in increased financial support from the general public, from corporations and from foundations. In fact, it has been estimated that every dollar which the ICA provides to one of these private organizations generates from $10 to $100 dollars from other non-U.S. Government sources.

By strengthening and reinforcing the work of private, non-profit organizations working to foster international understanding, the ICA indirectly benefits a large number of American communities. The Consortium members have found that participation in our programs has resulted in a deepening of community awareness of other peoples and ways of life and has enriched the cultural life of the community as a whole. Participation in exchange programs usually means that a community becomes more interested in the study of foreign languages--something important to the United States for both strategic and commercial reasons. American communities also benefit in tangible ways from involvement with private educational and cultural affairs programs. A frequent spin-off from these programs is increased tourism and a strengthening of commercial ties between U.S. and foreign communities. Most importantly, taking part in private, non-profit exchange programs which have been endorsed by the ICA gives average Americans the opportunity to play a role in public diplomacy--they can help to promote international understanding, rather than leave that job to Government alone.

To conclude, I will put my position in perspective:

ICA is the agency of Government charged with, among other things, the task of improving the accuracy of perceptions of the United States in other parts of the world, as well as mutual understanding between the people of our country and other countries. We have learned that perceptions are crucial in political, as well as human, relationships, and that perceptions are shaped by experience. Without in any way denigrating the Voice of America or the other vital aspects of ICA's missions, let me state my contention that one of the best ways to permanently alter perceptions in the direction of accuracy and of permanently improving mutual respect and understanding is through international educational and cultural citizen exchange. Much of this exchange is carried out by private, non-profit organizations working in cooperation with the Directorate for Educational and Cultural Affairs of the International Communication Agency.

Mr. Chairman and distinguished Members of the Subcommittee, permit me to summarize. As you make your difficult budgetary decisions about ICA for FY 83, I respectfully urge you to keep in mind the importance of educational and cultural affairs programs. I urge you to see that the ICA is provided with resources sufficient to enable it to mount a strong program in the area of educational and cultural affairs. I also urge you to make the level of funding sufficient so that, in particular, all the programs of ECA can be appropriately supported.

Thank you.

STATEMENT OF PEGGY BURKE

Ms. BURKE. Mr. Chairman, I too would like to add my thank you. We have been very, very pleased with the kind of response that we have received from you each time we have approached you for support and response to our special concerns.

The Council of International Programs is a rather unique organization in the international exchange field. I am pleased to be listed with the student exchange programs this morning and to appear on this panel.

However, we are not a student exchange program but, instead, we have an exchange program that brings only professionals to the USA. These professionals are all working in areas of human services. The many different disciplines of human services are all represented in those that are brought to the United States through our program. So we are talking about adults. We are talking about adults that have already enjoyed a certain degree of success or have risen to certain levels in their Government agencies or private agencies that they serve in their countries. So already they are in a position to provide some impact on the decisionmaking, et cetera, that takes place when they return to their homeland.

Our program is 26 years old, and over those 26 years we have brought approximately 5,000 participants to the USA to participate in our program. I should mention, and I did introduce myself—I will do it again—that I am Peggy Burke, president of a volunteer board. I definitely represent the volunteer end. In fact, I became acquainted with the whole exchange program idea as a host family. That means I am among over 25,000 families in the USA that have hosted representatives that have come to participate in our program. Through this contact in my household and these 25,000 other households in the USA, over 800,000 lives have been touched just by the participants of our program alone. So if that is multiplied by the many other programs represented here, you can imagine the effectiveness and the kind of impact the international program can have on U.S. policies, on U.S. attitudes, and exactly what happens when these people go back home and they are able to tell the American story and can do it from a firsthand experience. I think it is very, very important.

Of course, our political and our economic interests are served—when I say "our," I mean the U.S. Government—are served by having these people present here in the USA, and particularly our representatives that are working daily in agencies, in U.S. agencies and coming in contact with U.S. citizens in the job place. I think that is another area that makes our program a bit unique. They are meeting everyday people and not just people in an academic setting.

I think I should emphasize that most U.S. citizens are isolated from the rest of the world. We are isolated not only because of geography and because of our limited borders but simply because of the cost of travel. There is a limited number of U.S. citizens who are able to travel abroad, and especially when we talk about grassroots, we talk about average American citizens. Through this program they are exposed to the world and they learn an awful lot about the world. As a result, they are better able to understand the importance of U.S. relationships with other parts of the world.

It is important that these kinds of programs stay alive to provide an educational exchange and exposure for John Doe citizen as well as those who are attempting to achieve certain academic levels.

I think that we are investing in our future through these programs, and I won't repeat the kinds of things that have already been said when we compare our investment with the investments of other countries of the world. It is unfortunate that our investments are declining. I think with that decline we are also diminishing our ability to influence and direct activities in the world as we certainly, as a powerful Nation, should be able to continue to do.

Very much of what I have in my written statement has been said or will be said, I am sure, by other representatives here on this panel. Recognizing that, I will end my presentation this morning. But I do want to thank you again for listening, for providing us the time this morning to appear, and I certainly am open to respond to any inquiry that you might like to make.

Senator WEICKER. Thank you very much.

[The statement follows:]

STATEMENT OF THE COUNCIL OF INTERNATIONAL PROGRAMS

This statement is presented by the Council of International Programs (CIP), a private sector program partially sponsored by the International Communciation Agency of the United States Government. CIP is a professional and cultural exchange program that provides educational professional enrichment and skills development opportunities for participants from over ninety countries of the world. It has grown and become increasingly more effective over twenty six years and is one of the largest professional and cultural exchange programs operating in the United States.

Each year the CIP operates with fourteen affiliate programs. In cities throughout the United States all of the programs work with institutes of higher learning in those communities.

Approximately two hundred twenty five professional youth leaders, social workers and educators come to the U.S.A. for periods of four to thirteen months learning from and teaching each other professional technique and developing and enhancing their skills as they work and live with U.S.A. citizens.

Over five thousand participants have traveled to the U.S.A. for the CIP experience. They have been hosted by over 25,000, U.S. host families that provide food, housing, entertainment, transportation as well as introduction to their friends and families increasing the foreign participants U.S. contacts to at least 800,000, individuals, using averages that we have been able to calculate.

The Council of International Programs facilitates interaction and cooperation between and among international visitors and U.S. professionals at all levels of human services through appropriate agencies, educational institutes and other public and private sector projects and programs providing social work, health care, education, recreation and youth leadership in U.S. communities.

All of the administration and coordination of this very unique program is managed by a very limited staff while most of the implementation and support is provided by thousands of volunteers at every level of the program every year.

The Council of International Programs and other educational and cultural exchange programs are vital to our nation's security and overall international relations throughout the world.

Political and economic interest and goals of the United States of America have been served successfully by "citizen diplomats" in the U.S.A. and in countries all over the world through educational and cultural exchange programs. The importance of the understanding and the importance of the human ties that grow from the people to people contacts made between U.S.A. citizens and people from other countries should not be underestimated by those responsible for shaping our foreign policies and those responsible for shaping our national budget.

A majority of our U.S. citizens are isolated from direct contact with major parts of the world due to our geographical location and limited border connections yet we grow more dependent and are influenced by events and forces around the world each day.

We are engaging in foreign trade and commerce and providing and receiving professional services in areas of human services, agriculture and many industries too numerous to mention. We must improve the level of understanding of world events among average U.S. citizens and improve U.S. political and economic effectiveness abroad. Providing educational and cultural exchange opens minds and doors all over the world.

Many people throughout the world have a distorted image of the U.S.A. that will not be made clearer or more positive by reducing the investment that the U.S.A. now makes in foreign exchange. It is important for Americans to know and understand other cultures and to receive from and contribute to the professional, technical and skills development process in the world.

Through educational and cultural exchange the U.S. is investing in its future. Other countries including the U.S.S.R., Germany, France, United Kingdom, etc., are increasing their investments and intensifying the exchange of ideas and practical experiences that aid the development in Third World countries. Other countries are increasing their contributions to the introduction of new technologies and the development of leadership in the world especially in Third World countries. According to recent reports published by the U.S. General Accounting Office the U.S.A. has fallen behind the competition to provide sponsorship for exchange programs. Each year that the U.S.A. reduces its commitment and financial support for exchange programs we are reducing the world's knowledge and understanding of life and attitudes in the U.S. and reducing our ability to influence and shape world ideas, opinions and direction.

The concerns discussed are not limited to what the U.S.A. must commit and spend to help poor countries in their development. They are about the world's commitments and investments toward peace and survival, our survival in a world of increased dangers and rumors of war. International educational and cultural exchange plays a valuable role in efforts between countries to find answers to problems facing the world. These programs are very unique in concept and practice. Unique in the U.S.A. where volunteers take on the responsibility of planning, programming, housing, contributing time and money to programs that serve people from countries and cultures unlike their own in an effort to make a personal contribution to world peace. Especially unique in the U.S.A. where voluntary based programs and/or educational institutes cosponsor with government a vehicle for dispeling misconceptions which people of different nations have about each other.

Quoting from the May, 1981, statement presented by the International Educational Exchange Liaison Group on enhancing American influence abroad: International Exchanges in the National Interest

> "The monies needed to rebuild the educational and cultural exchange programs of the U.S. Government are not excessive nor are advocates unmindful of the need to reduce cost, streamline programs and assure increased counterpart funds."

This statement discusses the "multiplier effect" that federally sponsored exchanges stimulates both in the service of the U.S.A. foreign policy and in stimulating private sector and foreign contributions.

The Council of International programs receives less than 20% of its budget from the USICA the balance is contributed by individuals, foundations, corporations, host families, social service agencies and foreign governments. CIP has over twenty-six years shifted from 100% funding by the U.S. Government in its early history to needing only an amount less than a half million dollars to demonstrate U.S. involvement and support and to generate funds from the other sources named above. This money is used to generate about ten times its dollar value. Quoting again from the International Educational Exchange Liaison Group statement; "The erosion of government support for exchange opportunities and our inability to build upon earlier long-standing and effective investments in exchanges is decidedly not in the national interest of the United States. The neglect of exchanges reinforces the view abroad that America wants to obtain the natural resources of others and consume them with abandon, without sharing one of its own natural resources--its educational system--with other peoples eager to learn and to improve the lot of their often beleaguered countries. In an age of complex global negotiations, instant communication and nuclear confrontation, America needs every means available to it to build a secure future. USICA's programs and related international educational efforts have never been more vital to the national interest, in assuring "brainpower" as well as firepower. These programs represent vital instrumentalities with which to create a world more amenable to American values and national security. By increasing its modest investment in educational and cultural exchange, the U.S. can reverse the decline of American influences abroad and extend American competence in world affairs. We must invest our energies, talents and resources to assure a level of influence and measure of respect commensurate with our actual power. This is the path of responsibility as well as prudence. Americans have always met such challenges."

Presented as appendixes to this statement are copies of letters and statements from former CIP participants, their statements reflect clearly the values of these program's experiences to peoples and nations of the world.

STATEMENT OF REV. T. BYRON COLLINS

Reverend COLLINS. Senator, we will be very brief. First I want to thank you and the committee and the excellent staff and Senator Hollings and his excellent staff.

We are here for our international student exchange program. I want to thank the committee for resolving our problems for the last year and introduce to you the organization that is going to carry it forward. It has 150 universities belonging to it. I would like to introduce to you the board member who will soon assume part of the responsibilities, Nancy McCormack, association director, division of international education of the University of Tennessee.

STATEMENT OF NANCY McCORMACK

Ms. McCORMACK. Thank you. It is a real thrill to be with you all. It is a trite thing to say, but really it is true. We all think that what we are coming and asking you for is really important because it is our job. But I know what we are talking about is really important. I thank you for listening to us in the past and letting us come here to be with you today.

As Father Collins has said, I sense the pilot is what the party needs to grow on because so many good things are happening from it. Again, as he said, we have 150 members, institutional representatives from the United States and around the world. Where 2 years ago it would take us months, sometimes weeks, before we knew if our student from Tennessee was going to get to go to somewhere in Kenya, now we know immediately. That is an incredible thing.

The program is now ready to move toward the new organizational structure. We are growing up. We can stand on our own. The board is part of that movement. We will continue to need you all. We need your assistance. We can't do it alone. Of course, no one can do it alone, but we really do need you to be with us and stay with us.

We figure it will cost about $815,000 next year to send 750 students back and forth in exchange. If you all could help us out with just $550,000, we will come up with the rest from our pockets, from our campuses and other sources.

Everybody that was familiar with this program, including you all, knew it was a good idea. I think we all hoped it would work. The wonderful thing is it did work, it is working, and we ask you to stand with us.

I would like to introduce to you Henry Ench, assistant to the vice president for academic affairs, Central Connecticut State College.

STATEMENT OF HENRY ENCH

Mr. **ENCH.** Senator Weicker, the Central Connecticut State College, as you know, enrolls approximately 6,500 full-time students and an additional 5,000 part-time students. Those students come primarily from the middle and lower economic income groups. This program offers those students an opportunity to study abroad while paying Central Connecticut College's tuition, room and board. It is therefore a tremendous opportunity for those students that they otherwise would not have.

Central Connecticut is also very much supportive of the ISEP program because it offers us an exchange among the various institutions rather than an exchange between the institutions. If the funding for the central office is not continued, Central Connecticut would have grave difficulty in maintaining its membership in the ISEP organization.

So I am here today on behalf of Central Connecticut to urge your continued support and to thank you for what you have done in the past.

Ms. **MCCORMACK.** May I introduce Mary Elizabeth Gwin who used to be with the Office of Foreign Student Advisors and now she has a new title. She is from the University of Mississippi.

Senator **WEICKER.** Is that why you are here? [Laughter.]

Senator **COCHRAN.** That is why I am here.

Senator **WEICKER.** You are very welcome and you have a very wonderful Senator. Even though I like him as much as I do, I can beat him in tennis. [Laughter.]

STATEMENT OF MARY ELIZABETH GWIN

Ms. **GWIN.** Actually, what I want to talk about is more or less what is happening in Mississippi. We are a State-supported institution. When we got excited and involved in this program, I said it was because many of our students were not going overseas to study, even though institutionally we thought it was a good idea, but the administration couldn't always support the idea because they felt they were losing those wonderful credit hours produced on which State funding is based.

When they found out their students could have an opportunity to study almost anywhere that they wanted—and that is another point, which I believe the other people have made, because it is easier maybe to arrange a one-on-one exchange if you happen to know somebody in another place who wants to send someone to your school and you have someone from your school who wants to go to their school. If you have a student who wants to go to Kenya or wants to go to Mexico and you don't know anybody, you need some sort of central organization that can help you.

When our students were able to pay their tuition to the University of Mississippi, the University of Mississippi realized they were not going to lose that student; they were going to have the student tuition; they were going to have the student still on their books, but they were going to provide that student with the opportunity to go to the place they wanted to study, and in return they would receive a student, and it didn't have to be from the same place.

A lot of the students we have have had a tremendous impact on us. I teach French in addition to what I do as an international program advisor. We have had some French students who have come in and have been able to really help us where we have never been able to have informants in our program. They are working in the language lab and helping our students.

One of the points I wanted to make, though, was that in the initial pilot project, we thought we were going to have large numbers of students and so we projected there would be 100 the first year, and I forget how many after that. When you look at the statistics, you will see there is not that many. I think it is because the incoming freshmen didn't know about the program and were not ready to get themselves available. They have to have a language capability and they have to plan their program so they can spend the junior year abroad. What happens is they suddenly hear about the program 2 months before and say, "Oh, yes, I would like to do it, but I don't have the proper program. I haven't done this or that."

So each year I find that I am having a greater increase. Many more people are beating down the doors and saying, "I want to do this and plan now in the freshman year to do it in 3 years."

So we need the support and funding so we can carry on this project.

Reverend COLLINS. Thank you, Senator.

[The statement follows:]

STATEMENT OF FATHER T. BYRON COLLINS, S. J.

Mr. Chairman and Members of the Committee, we are Father T. Byron Collins, S.J., Assistant to the President of Georgetown University, Ms. Gretchen Carroll, Executive Director of the International Student Exchange Program (ISEP), and representatives from the ISEP Board, Central Connecticut State College and the University of Mississippi.

We are here to thank the Committee for its support of the International Student Exchange Program over the four year pilot phase of the program and to present the request of the ISEP Board for funding for the exchange program of the association of ISEP institutions.

PURPOSE AND STRUCTURE OF ISEP

The International Student Exchange Program (ISEP) is a USICA-funded association of post-secondary institutions which arranges one-for-one student exchanges between cooperating U.S. and non-U.S. colleges and universities. ISEP is based on the premise that the real cost of education varies little from institution to institution and country to country; therefore, a year of education "purchased" at one institution can reasonably to exchanged for a year of education elsewhere. ISEP provides the administrative structure which links the network of institutions worldwide to encourage and facilitate the regular exchange of students on a fully reciprocal basis. Except for travel, the cost to participating students is the same as if they remained at their home institutions.

A twelve-member Board representing public and private member institutions and national organizations engaged in international educational exchange meets regularly to supervise program development and to provide operational guidance. On the basis of criteria established by the Board, ISEP recruits participating colleges and universities, collects and shares information among those institutions, and determines the placement of students.

HISTORY OF ISEP

The ISEP concept was developed by the Office of International Programs at Georgetown University based on extensive experience with student exchanges. The original program outline was discussed with the President and staff of the Institute of International Education (IIE) in New York, the staff director of the Board of Foreign Scholarships, and the then Director of USICA/ECA. Encouraged by these discussions, representatives of Georgetown University and IIE jointly testified for congressional support of the pilot project. In June 1978, the House Committee on Appropriations Report (No. 951253) recommended a $1 million increase in Fulbright funds with $150,000 earmarked each for Georgetown University and IIE to begin the pilot project. The Senate Appropriations Committee, Subcommittee on State, Justice, Commerce, the Judiciary, and Related Agencies included language in its report for FY79 concerning the joint Georgetown University/IIE student exchange program. In December 1978, Georgetown received the initial funding from USICA to begin the pilot project.

The cost to the U.S. government for development and implementation of ISEP for the four years of the pilot program (FY 79-82) was $1.4 million. Approximately 1000 students participated in ISEP exchanges arranged during the pilot phase. A major factor contributing to the lower-than-projected number of students placed was the high demand for English language sites which could not be met by the program. As it was not seen to be a priority in terms of national security interests to develop English language sites, emphasis was not put on this in the pilot stage of the program. Our U.S. member institutions were warned that few English language placements would be available yet more than fifty percent of the candidates they nominated requested English language sites.

FY83 BUDGET REQUEST

The FY83 budget request of $550,000 is to continue the development of the program and to carry out the placement of 750 students. The total projected program budget of $815,276 will cover the following activities:

$350,000 -	negotiation of exchange agreements with additional institutions worldwide; refining the program structure and increasing the data base; developing and implementing staff exchanges and internships
$300,000 -	production of program materials and distribution to member institutions
$165,276 -	participant placement and oversight

In FY83, approximately 100 additional institutions in countries already represented in the ISEP network and 100 institutions in 40 countries not yet represented will be invited to consider ISEP membership. Member institutions abroad will be sought in every language area represented in the undergraduate curriculum of U.S. ISEP member institutions. Major emphasis will be put on developing additional sites in Spanish speaking areas, particularly in Central and South America. While we recognize that it is not necessarily in the national security interest, we will attempt to respond to U.S. member institutions' needs by developing additional English language sites.

In response to requests from the membership, staff exchanges and internships will be developed in FY83. These will operate on the same fully reciprocal basis as the student exchanges.

In FY83 ISEP will develop a mechanism to encourage and facilitate the development of joint degree programs between member institutions to better utilize academic resources. Using the ISEP network, cultural immersion and language learning abroad can easily be made an integral part of U.S. degree programs at no additional cost to the institutions.

Based on a model now being developed with a Colombian foundation, ISEP will continue in FY83 to develop links with counterpart organizations abroad to strengthen the network.

A major effort in FY83 will be directed to obtaining incentive scholarships for U.S. students, and travel subsidies for all ISEP participants.

For the four years of the pilot stage of ISEP, 100 percent funding was obtained from the U.S. government. The percentage of federal funding requested for FY83 and subsequent years is projected to decrease annually. Federal funding will be supplemented by membership and placement fees and by foreign government, foundation, and corporate contributions, beginning in FY83. From the beginning of the pilot project in FY79, member institutions have provided "matching funds" through tuition, room, and board benefits and extensive administrative support equalling $10 for each $1 of U.S. government funding provided.

PROGRAM ACTIVITY

FY	Grant Award	Number Countries Involved	Number Member Institutions	Number Students Placed	Per-Student Cost
1979	$100,000	6	9	28	$3,571
1980	$200,000	13	27	128	$1,562
1981	$500,000	16	154	251	$1,992
1982	$600,000*	30**	200**	600**	$1,000
1983	$550,000*	40**	250**	750**	$ 733

* requested
** estimated

CONCLUSION

ISEP is clearly unique in providing extensive opportunities for U.S. students, including, specifically, economically disadvantaged students, to benefit from a foreign study experience not only in Europe but in areas of Africa, Asia, and Latin America which have not previously been easily accessible to U.S. undergraduates. Through ISEP, U.S. students can directly matriculate at host institutions abroad, ensuring the greatest cultural immersion and foreign language use. The scope of the ISEP network and the flexibility of the program, which allow students at both the undergraduate and graduate levels and in all academic disciplines to participate, provide for a degree of student mobility never before offered to as wide a range of U.S. students, at a highly efficient unit cost.

While full utilization of the opportunities ISEP offers will only be realized when ISEP has been operating long enough for entering freshmen at U.S. member institutions to be aware of the program and begin to study languages in preparation for an ISEP exchange during their college years, the program's potential is already clear. The attached letters in support of ISEP sent by the heads of U.S. member institutions to Dr. Samuel Spencer, Chairman of the Board of Foreign Scholarships, attest to the value of ISEP and the need for continued federal support.

April 9, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U.S. International Communication Agency
1776 Pennsylvania Avenue, N.W., Room 523
Washington, D. C. 20547

Dear Dr. Spencer:

It is my understanding that the U.S. International Communication Agency is considering discontinuation of its support for the International Student Exchange Program. I urge that support for this valuable and important program be continued.

The International Student Exchange Program provides students who attend The University of Iowa the opportunity to study at more than 50 institutions in 25 countries at a cost, except for airfare, no greater than the cost of remaining at Iowa. The majority of study abroad programs are very expensive and beyond the reach of most of our students. Moreover, the number of study abroad opportunities available to our undergraduate and graduate students through the International Student Exchange Program will increase several-fold over the next few years if the International Communication Agency continues its support for this program. Students from middle America need such experiences in order to broaden their intellectual and cultural perspectives, particularly given the relative isolation in which many of them have been reared.

As a charter member of the International Student Exchange Program, The University of Iowa has made a substantial investment in this program by helping to underwrite the start-up costs for it. We view with despair the prospects of losing this investment. It is, therefore, our fervent hope that government support for this unique and vital program is continued.

Sincerely,

James O. Freedman
President

April 5, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U.S. International Communication Agency
1776 Pennsylvania Avenue, N.W., Room 523
Washington, D.C. 20547

Dear Dr. Spencer:

With your deep and abiding interest in overseas study and exchange programs and your keen perception of the need to expand the opportunities for students and faculty to engage in a challenging international/intercultural learning experience, I am confident you are aware of the significance of mechanisms such as the International Student Exchange Program (ISEP) in developing and facilitating such exchanges. I write today to urge you to support in every way possible continued funding for one of the great ideas of our time - ISEP.

I will not pretend to speak for other institutions, but it is clear at the College of Charleston that our participation in ISEP has played a truly vital role in a campus-wide internationalization effort that encompasses every aspect of the College. Until ISEP our efforts to generate substantive and continuing interest in overseas study met with only modest results. ISEP has spurred both students and faculty, not only to consider study abroad as a possible component of the liberal arts experience, but has also brought such an undertaking within the realm of reality through financial arrangements that are expecially appealing to students who must often work to meet even modest public tuition payments.

We are both familiar with and respect the far-sighted and generous commitment of the government of the Federal Republic of Germany to the concept of international educational exchange. As a nation our efforts pale in comparison with our partners across the Atlantic. I would hope that we might begin to emulate the examples of both allies and adversaries abroad who seem to recognize the immense potential that lies within the exchange of teachers and learners. ISEP (and the Fulbright Program), neither of which, relatively speaking, is expensive, deserve the opportunity to be nurtured and allowed to reach their full potential.

The USICA contribution to the ISEP program represents only a fraction of the total cost. The bulk is being borne by participating institutions. Yet the funding received from USICA can be likened to the cost of the mortar in a brick building. While it constitutes only a small portion of the total, it plays a most important role in keeping the structure intact. Indeed, without it the value and stability of the whole would be greatly diminished.

I hope that you and your colleagues on the Board of Foreign Scholarships will speak out forcefully in support of ISEP and the sister programs which are so vital to the ongoing effort to provide our countrymen with a globally valid education.

Best regards to you and your family and our many fine colleagues at Davidson. I look forward to receiving my Davidson Update and continue to take considerable pride in your accomplishments there.

Sincerely,

Paul C. Fisher
Assistant Academic Vice President
for Academic Affairs
Director of International Studies

April 2, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U. S. International Communication Agency
1776 Pennsylvania Avenue, NW, Room 523
Washington, D. C. 20547

Dear Dr. Spencer:

The International Student Exchange Program, which is so largely funded by contributions from the member colleges and universities, is the most economical way I can imagine to achieve a very important national goal: educational exchange and intercultural communication.

I was amazed, recently, to hear that ISEP may lose the modest, "seed-money" type of Federal funding which has made it possible to develop the international student exchange program. If ever public money operated as a lever to achieve a good goal through the expenditures of participating individuals and institutions, the ISEP has so done. To cut off this avenue of international exchange seems a classic case of being penny-wise and pound-foolish.

Please record William Jewell College as being a strong supporter of the kind of creative use of public money represented by ISEP. Would that all public-supported program would achieve so much for so little.

Respectfully,

J. Gordon Kingsley

April 2, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U. S. International Communication Agency
1776 Pennsylvania Avenue, NW, Room 523
Washington, DC 20547

Dear Dr. Spencer:

I would like to voice support for the International Student Exchange Program (ISEP) which is supported under the Fulbright-Hays Act of 1961. The University of Missouri-Rolla joined ISEP with the expectation that it was a program that would continue for many years. We have invested in the program both in terms of the administrative costs and in terms of covering the tuition, room, and board of incoming exchange students from student fees.

The International Student Exchange Program is undeniably one of the best bargains our government has in the international educational exchange field. I would appreciate your supporting any action which would help provide for the continuation of ISEP.

Sincerely,

Joseph M. Marchello
Chancellor

April 8, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U.S. International Communications Agency
1776 Pennsylvania Ave., N.W., Room 523
Washington, D.C. 20547

Dear Dr. Spencer:

It has come to my attention that your board is reviewing federal support for the International Student Exchange Program (ISEP). By this letter I wish to endorse the merits of the program and the continued need for federal assistance.

I know you are aware of the unfortunate condition of global awareness in the U.S. as reported in the Presidential Commission Report, "Strength Through Wisdom". ISEP appears to us to be one of the best counters to that vital weakness in the U.S.A. which will become more and more important in the years to come. Montana State University enthusiastically joined ISEP because the concept of the program made overseas study opportunities available to our students for the first time at a truly reasonable cost. It appears to us at Montana State University that ISEP is the wave of the future; if it does not continue, we foresee the cost of overseas study becoming so prohibitive that only a few of the wealthiest of our students could participate. Through ISEP we assure our best students opportunities never before possible.

Montana State University is located in a state generally considered isolated from the main stream of America. That status is even more true vis a vis world affairs; yet, Montanans, recognizing the interrelated world of today, have shown more interest in ISEP than any previous overseas study program. The ISEP idea has been expanded on our campus to include two additional study sites, one in Japan and one in Egypt following the ISEP concept. We are trying very hard to develop an academic environment that encourages Montana students to become knowledgeable participants in international affairs. We desperately need ISEP and have accepted the increased costs that will be necessary to continue ISEP beyond its original grant period. We hope your committee will continue to fund ISEP and watch it grow. It should become the most important overseas study program in the U.S.A.

In a recent column in Newsweek, Lester Thurow, the MIT economist and native Montanan, argued articulately that federal support for important educational programs is the key to our nation's future ability to compete internationally. Our investment in ISEP will return significant dividends in the form of the global knowledge acquired by thousands of our future leaders. ISEP has our strongest support -- we hope it will have yours as well.

Sincerely,

William J. Tietz
President

March 31, 1982

Dr. Samuel R. Spencer, Chairman
The Board of Foreign Scholarships
U. S. International Communication Agency
1776 Pennsylvania Avenue, N.W., Room 523
Washington, DC 20547

Dear Dr. Spencer:

I am writing to you to express my strong support for continued funding of the International Student Exchange Program (ISEP).

Frostburg State College joined ISEP two years ago with the expectation that the program would expand and provide opportunities for international experiences for our students. Our commitment of administrative and faculty time to the program was predicated on our assumption that it would continue for many years. We are also committed to the cost of supporting the program through membership fees next year and through the use of staff time and other resources.

In my experience at this College over the past ten years, I know of no other program that has generated the interest and enthusiasm of our faculty and students as has ISEP. I believe that many students now involved in the program would not be able to afford the costs of study abroad were the ISEP possibility not available.

I strongly urge you consider the International Student Exchange program as one of the top priorities for support by the Board.

Sincerely,

/s/

Kenneth Jablon
Acting President

March 31, 1982

Dr. Samuel R. Spencer, Chairman
The Board of Foreign Scholarships
USICA
1776 Pennsylvania Avenue, N. W., Room 523
Washington, D. C. 20547

Dear Dr. Spencer:

I am writing to express my support for the International Student Exchange Program (ISEP) in the hopes that funding for this innovative and important program will be continued.

George Mason University, one of the new ISEP member institutions, joined the program with the expectation that ISEP would continue for many years. We believe that all ISEP institutions contribute considerable staff time and other resources to insure successful exchange of students, and we believe the USICA should continue its financial support as well. Our young people who study abroad today will be our leaders of tomorrow.

I urge your support of ISEP. I thank you for your consideration and concern in this matter.

Sincerely,

George W. Johnson
President

April 2, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U.S. International Communication Agency
1776 Pennsylvania Avenue, N.W., Room 523
Washington, D.C. 20547

Dear Dr. Spencer:

As President of Creighton University, I would like to express our continued support for the International Student Exchange Program. This program is making an exciting and valuable contribution to the education of American and foreign undergraduate and graduate students by providing opportunities for study abroad. An important aspect of such a program is, of course, the cultural exchange and the impetus toward international understanding which is provided to students of many countries.

When Creighton University joined ISEP, it was hoped that the program would continue for many years, with both the United States Government and the member universities contributing to its support. The University contribution, in fact, will be a considerable one, both in terms of administrative costs and the membership fees due to be assessed starting in 1983. The continued support of the Government, as well, is obviously necessary to continue the ISEP Program, which has shown slow but steady growth during the years since its inception.

For the reasons cited, therefore, I urge you and the Board of Foreign Scholarships to continue the funding of the ISEP Program originally provided under the authority of the Fulbright-Hays Act of 1961.

Thank you for your consideration.

Sincerely,

Michael G. Morrison, S.J.
President

April 2, 1982

Dr. Samuel R. Spencer
Chairman
The Board of Foreign Scholarships
U.S. International Communication Agency
1776 Pennsylvania Avenue, NW, Room 523
Washington, DC 20547

Dear Dr. Spencer:

As President of Fairfield University, I am writing to ask your continued efforts in supporting our government funding which has made it possible to develop the International Student Exchange Program. Fairfield University, has been a participating member of this unique program whereby our students are given the opportunity to study abroad for the same cost as a year's expenses at Fairfield.

When Fairfield University joined the International Student Exchange Program, it was our expectation that this valuable program would continue for many years and provide countless students with an opportunity that otherwise might be denied them. In addition, the University has also made an investment in this program both in terms of the administrative costs of running the program on campus and in terms of defraying expenses for incoming exchange students.

It is my belief that this program is invaluable in the international educational exchange field and would be a great loss if not continued. For whatever assistance you can give in supporting this program, I would be most grateful.

Sincerely,

Aloysius P. Kelley, S.J.
President

April 7, 1982

Dr. Samuel R. Spencer, Chairman
The Board of Foreign Scholarships
U.S. International Communication Agency
1776 Pennsylvania Avenue, NW, Room 523
Washington, DC 20547

Dear Dr. Spencer:

I would like to indicate to you that the University of Wisconsin-LaCrosse participates in the International Student Exchange Program. We feel ISEP provides an excellent opportunity for our students to experience study abroad opportunities.

As you proceed with your difficult task, please be aware that ISEP is one of those programs that does provide excellent service to institutions to help us increase opportunities for our students.

Sincerely,

Noel J. Richards
Chancellor

Mr. RICHARDSON. Mr. Chairman, I neglected to introduce two very important people here with me.

Senator WEICKER. Go ahead.

Mr. RICHARDSON. Ruth Frank, who for 20 years has been with Coservants and the predecessor to the National Council for International Visitors. That is the organization that handles the important people who come from abroad through community-based volunteer efforts amounting to about $15 million a year in locally raised funds. That is one of the members of the consortium that I mentioned.

The executive director of the consortium is Rosemary Lyon who is also here. She helps these eight organizations, which include the American Field Service; which includes Experiment in National Living, The Friendship Force, Partners of the Americas, People to People International, and Sisters, as well as Youth for Understanding, my organization, in coordinating and cooperating in their efforts. This is the first time, I may add, in my experience in this field that organizations are coming together and cooperating and collaborating to use all of their resources better. So in my view, the Government is getting a better deal than it ever did with the very small amount it puts in the tremendous private effort that is now better coordinated than ever before.

Thank you, Mr. Chairman.

Senator WEICKER. I want to thank you all. I want to thank you for the support you have enunciated during the past several years when these programs have been under pressure. I know Senator Cochran and many of our other colleagues have been enormously supportive of these efforts.

Let me say that I think you enjoy—on the one hand, you have a difficult time in budgetary terms. On the other hand, in terms of finding a vehicle with which to bring understanding to the American people as to what you are doing, you probably live in the best of times.

I think there is a true confusion, perplexity on the part of the American people as to what it is that is going on in Central America and other parts of the world, in Africa. Instinctively they know that arms aren't the answer. I think we have seen that in response to every poll that has been taken. But they don't know what the answer is.

I am sure that everyone of you who is here today is convinced that you are a key part of that answer to what needs to be done for the future, whether you define it in terms of education, whether you define it in terms of friendship or in terms of national security. And I think maybe that is the point that hits home the hardest.

Your efforts are no longer in the nice-to-have category. They ought to be the principal tool of this Nation to insure the world against the totalitarian alternatives, whether they are from the left or from the right.

Thad?

Senator COCHRAN. Mr. Chairman, thank you very much.

First of all, I want to mention the strong leadership that Chairman Weicker has provided to the subcommittee in this area and to the entire Senate as well. There has been, of course, implicit in the budget requests that have been submitted an intention by the administration to phase out support for the cultural and educational exchange programs. I think that is wrong. I don't agree with that approach to the obligations that we have to cooperate with volunteer organizations that you represent and many others such as the Rotary Foundation that don't get direct Government assistance but nonetheless are working toward the same goals—that is, to promote peace and understanding and international good will. The chairman is exactly right; that is immensely important. I don't think at any time in our history has it been any more important. I don't see how we can justify diminishing that support and leadership that the Government has to provide.

It is just like support for the arts and humanities. I think the dollars we are talking about aren't really all that great, but it serves to focus attention and demonstrate leadership that serve a purpose that really is indispensable if we are going to have an effective program like this.

I worry when I get information about how many students are going into the universities of the Eastern Bloc countries and the Soviet Union from Latin America and all over the world in comparison with the situation 20 or 30 years ago. Those numbers are alarming to me, because I think in the long term it is inevitably going to mean closer ties between those nations and the Eastern Bloc, and the Soviet Union itself.

So I think we can't afford to ignore the responsibility we have as a Government in this area. I think you can all be assured that the subcommittee will do whatever is possible within the constraints of the overall budget considerations and the budget resolution, whatever it says, if there ever is one, to help support the things you are talking about this morning. I personally appreciate your being here. I think your statements have been excellent.

Ms. BURKE. Thank you very much.

Mr. RICHARDSON. We are most grateful.

Senator WEICKER. Thank you.

DEPARTMENT OF JUSTICE PROGRAMS

STATEMENT OF JAMES R. GORSON, DIRECTOR OF FACILITATION, AIR TRANSPORT ASSOCIATION OF AMERICA

ACCOMPANIED BY:

LINDA PINEGAR, DIRECTOR OF FEDERAL LEGISLATION

J. J. CORBETT, VICE PRESIDENT OF FEDERAL AFFAIRS, AIRPORT OPERATORS COUNCIL INTERNATIONAL, INC.

SUSAN KOKINDA, WASHINGTON REPRESENTATIVE, NATIONAL DEMOCRATIC POLICY COMMITTEE

Senator WEICKER. Our next panel is on the Department of Justice programs. We have J. J. Corbett, vice president of Federal affairs, Airport Operators Council International; James R. Gorson, director of facilitation, Air Transport Association of America; and Susan Kokinda, Washington representative, National Democratic Policy Committee.

We are missing a couple members of the panel.

Please proceed, Mr. Gorson.

Mr. GORSON. I am James R. Gorson. I am director of facilitation of the Air Transport Association of America. With me is Mrs. Linda Pinegar, director of Federal legislation.

In the interest of time, Mr. Chairman, if I could simply summarize my comments.

Senator WEICKER. Please do.

Mr. GORSON. The Air Transport Association represents virtually all of the scheduled airlines of the United States. We appreciate this opportunity to appear before this subcommittee to discuss the fiscal year 1983 budget for the Immigration Service.

Air transportation is the principal mode of transportation to and from the United States for international travelers. Since immigration inspection formalities directly affect international air travel and are mandatory at U.S. airports of entry, the U.S. airlines are vitally interested in the impact of the budget on immigration staffing and inspection procedures.

The budget actions, Mr. Chairman, over the past several years have had the effect of reducing the number of available immigration inspectors at our international airports. They have adversely affected the time required for and private sector costs associated with the federally imposed inspection of passengers at preclearance points abroad and at U.S. airports of entry, notwithstanding the importance of efficient and productive U.S. international air commerce to the national economy.

We urge the subcommittee to resolve this problem by bringing immigration inspector resources and workloads into better balance through budget appropriations and policy direction.

There continues to be severe congestion in processing international travelers through immigration formalities at most U.S. airports of entry. Delays, at times approaching 2 to 3 hours per flight, are still not uncommon.

Without significant changes in staffing levels or procedures, the problem will be exacerbated during the peak travel season this year which begins next month.

However, it is significant that Miami and Los Angeles airports are not currently experiencing unduly severe immigration processing problems. This is because of the GAO one-stop facilitation concept, called ASIST—accelerated specialized inspection system—at these two locations. The procedure has simplified and accelerated immigration, customs, and agriculture inspection formalities. We commend the chairman and members of this committee for the initiative and leadership with respect to the testing of the GAO one-stop passenger facilitation concept at the Miami and Los Angeles International Airports. The Comptroller General in his report of March 22 concluded that the one-stop inspection system has reduced primary inspection time by over one-third. We believe this is an important first step toward the development of a more selective, expeditious passenger inspection system which can and should be expanded nationwide.

Therefore, Mr. Chairman, either adequate numbers of inspectors must be authorized or a high priority program to reduce inspector workload—through modernization, simplification, and consolidation of the functions of the several inspection agencies—must be initiated.

In this regard, we urge: one, extension of preclearance, which is an inspection of air passengers prior to departure in the foreign country rather than on arrival in the United States, to more locations abroad; two, undertaking on a priority basis an exploration of and reaching decisions on ways to consolidate the functions of the several inspection agencies—that is, Immigration, Customs, and Agriculture; three, introduction of further immigration sampling techniques for processing international air passengers; and four, introduction of a machine readable U.S. passport system at major U.S. airports of entry. All that is needed are machines to read U.S. passports being issued today.

Although the several measures we are urging will not eliminate the need for immigration inspector staff resource adjustments as international traffic continues to grow, they would moderate such resource demands in the future.

In summary, we strongly urge the subcommittee to provide for adequate immigration inspection personnel at our international airports and to direct implementation of the priority initiatives necessary to simplify the inspection process.

That concludes my remarks, Mr. Chairman. Mrs. Pinegar and I will be glad to respond to any questions.

[The statement follows:]

STATEMENT OF JAMES R. GORSON

My name is James Gorson, I am Director of Facilitation of the Air Transport Association of America, which represents virtually all of the scheduled airlines of the United States. Nineteen of our member airlines provide regularly scheduled air service between the United States and more than 70 countries.

We appreciate the opportunity to appear before the Subcommitte to discuss the FY 1983 budget for the Immigration Service. Air transportation is the principal mode of transportation to and from the United States for international travelers. Since Immigration inspection formalities directly affect international air travel, and are mandatory at U.S. airports of entry, we are deeply interested in the impact of the budget on immigration staffing and inspection procedures.

We are concerned about the problem of inadequate immigration inspector staffing at airports of entry because it reflects adversely on the United States, seriously inconveniences our air travelers, and adds unnecessarily to the costs of our operations at a time when the airlines are suffering unprecedented losses due to the current economic situation. Reduced levels of U.S. immigration inspector staffing at U.S. airports of entry, as well as preclearance airports in Canada, the Bahamas, and Bermuda, are causing increasingly damaging effects on international air service, on travel and tourism, and on the public. We urge the Subcommittee to resolve this problem by bringing immigration inspector resources and work loads into better balance through budget appropriations and policy direction.

The FY 1983 Immigration Service budget request provides for no increase in immigration inspector staffing at airports of entry. However, according to conservative estimates based on airline industry analysis of inspector work load at these airports, and based on consultation with airport authorities, we conclude that 334 additional immigration inspectors are needed nationwide now. U.S. immigration inspector staffing has fallen behind the growth rate of international air travel. There has been and continues to be, severe congestion in processing international travelers through immigration formalities at most U.S. airports of entry. Delays, at times approaching 2 to 3 hours per flight, are not uncommon at the preclearance airports of Montreal and Toronto and at our airports in Atlanta, Baltimore, Chicago, Denver, Detroit, Fort Lauderdale, Honolulu, Houston, Minneapolis, New York (Kennedy), San Francisco, Seattle and Tampa. Without significant changes in staffing levels or procedures, the problem will be exacerbated during the peak travel season this year which extends from April through October.

Miami and Los Angeles are not currently experiencing such severe problems due to a facilitation procedure (ASIST -- Accelerated Specialized Inspection System Test) being evaluated at these locations. The procedure has simplified and significantly accelerated both immigration and customs inspection formalities. We commend the Chairman and the members of this Committee for supporting the implementation of ASIST at Miami and Los Angeles international airports. It has been an important first step toward the development of a more selective and efficient passenger inspection system which now should be expanded nationwide.

Under the ASIST procedure, immigration inspectors are augmented with customs inspectors at the primary immigration booths. The inspectors of the two agencies are cross-trained to perform each other's functions as well as that of agriculture quarantine. Deplaning travelers undergo inspection formalities with only their hand-carried baggage in their possession. If an immigration, customs or agricultural problem arises, or if duty payment is required, the traveler is referred to the appropriate inspection agency secondary position. Checked baggage is not claimed by the passenger until primary inspection at the immigration booth is completed. The airport authorities at Miami and Los Angeles, the international airlines serving these locations, and arriving travelers have all acclaimed the ASIST procedure. We understand that 9 additional U.S. airports of entry (New York (JFK), Honolulu, San Francisco, Chicago (O'Hare), Houston, Seattle, Tampa, Minneapolis and Dallas) all desire to begin the procedure, and have the financial resources to do so. It is important that these airports be permitted to implement ASIST before the height of the peak season this year.

Other additional measures to facilitate the entry of international air travelers also deserve the support of this Subcommittee. These measures will help meet the continued growth of international air travel and initiate the need for major expansions in inspector staffing. They include:

1. Extension of preclearance -- the inspection of air passengers prior to departure in a foreign country rather than on arrival in the U.S. -- two additional locations abroad;
2. Undertake the process of consolidating the functions of the several inspection agencies (Immigration, Customs, Agriculture);
3. Introduction of a machine-readable U.S. passport system at major U.S. airports of entry; and
4. Introduction of further immigration sampling techniques for processing international air passengers.

These additional facilitation items will not eliminate the need for immigration inspector staff resource adjustments as international air traffic continues to grow. However, they could moderate such resource demands in the future, and increase immigration inspector productivity without compromising immigration requirements or the inspection process. We seek the help of this Subcommittee in urging their prompt consideration and early implementation.

In summary, U.S. Immigration inspector staffing at international and preclearance airports is substantially below the level needed today for the prescribed inspection process. Unreasonable delays and public inconvenience have been the consequence. Unless immediate steps are taken to assure adequate immigration inspector resources, these problems will worsen. While simplification measures, such as the extension of the ASIST procedure to other airports, will help to reduce the growth in resource needs, they will not significantly reduce inspector staffing requirements in the absence of a major change in basic inspector agency policy such as the consolidation of the inspection functions of the several inspection agencies.

Senator WEICKER. What is the situation? Statistically are the delays as bad as you describe them here?

Mr. GORSON. Yes; the delays are quite bad.

Senator WEICKER. What airports are particularly bad?

Mr. GORSON. The bad airports today are Kennedy Airport in New York, Honolulu, San Francisco, San Juan, Seattle, Houston, Dallas, Tex., to a lesser extent Atlanta and Chicago. The preclearance airports at Montreal and Toronto are also understaffed.

The delay time only occurred going through formalities, but you are held on the airplane about an hour or so waiting to get off.

Senator WEICKER. Is the difficulty with Immigration or is it with Customs? What is the problem?

Mr. GORSON. The problem is with both Immigration and Customs. Immigration is perhaps more serious than Customs.

Senator WEICKER. Experimental programs that put all of this under one umbrella appear to be successful?

Mr. GORSON. I think it is the best thing in years. This is substantiated by a GAO report this month. Delays in Miami are reduced by 24 minutes and Los Angeles by 17 minutes.

Senator WEICKER. In this budget, do we extend that or not, the ASIST program?

Mr. KANE. No, sir.

Senator WEICKER. The ASIST programs in those two airports have been going on for how long?

Mr. GORSON. Since last August. But funds are not necessary. This is a matter of procedural adjustments.

Ms. PINEGAR. Senator, there are nine additional airports prepared to go forward with the ASIST program.

Senator WEICKER. Why can't they do it?

Ms. PINEGAR. They are waiting to be given permission to do so. They do have funds to carry out the modifications at their airports. We are requesting no funding for that.

Senator WEICKER. Who has to give permission?

Mr. GORSON. Immigration, Agriculture and Transportation. Immigration is prepared to go forward now. Agriculture is prepared to go forward now. We would hope Customs would be willing to do so also.

Senator WEICKER. It certainly sounds to me if it has worked in those two airports, there is no reason why it shouldn't be tried in the others.

Mr. GORSON. We feel that way, too, sir.

Senator WEICKER. Is there someone else here who is supposed to be on this panel?

This is Susan Kokinda, Washington representative of the National Democratic Policy Committee.

STATEMENT OF SUSAN KOKINDA

Ms. KOKINDA. Thank you, Mr. Chairman. We testified last year in front of this subcommittee on the inadequate funding for narcotic enforcement in the United States. I was, frankly, astonished by two things. One was the fact we were the only people testifying on that matter at that point, which I found astounding. Second, that the incoming Reagan administration had not seen fit to wage the kind of war on drugs which I think the American population expected of them in terms of the funding.

Unfortunately, the intervening years see no improvement in that funding situation. DEA, besides suffering a reorganization, which we feel is going to severely hurt its mission orientation, is not even keeping pace with inflation in terms of its budget this year. I believe the figures are a $16 million increase over a $230 million estimate last year, which does not keep pace with inflation.

In addition, the emphasis on the southern Florida situation, which is going to carry with it a major influx of manpower, is likely to leave other parts of the country short-staffed unless there is an augmentation of manpower overall.

DEA is not the only agency suffering these kinds of cuts. Customs is getting a 4.1-percent increase. That won't keep pace with inflation. Estimates are they will lose 1,200 inspectors because of that. The State Department's Narcotics Office is taking an across-the-board cut of 5.1 percent.

It is unfortunate there is a magazine called High Times which is the magazine of the illegal drug lobby in the United States which has a recent issue which gloats that the administration is not waging a war on drug law enforcement. They are quite happy over the fact that U.S. interdiction efforts of overseas heroin shipments is basically nonexistent at this point.

We stated last year we probably could not carry out a French connection bust if we wanted to. I think the situation is probably much worse this year.

We have not reversed the systematic destruction of U.S. overseas DEA offices that took place in the final days of the Carter administration. I would like to put some of these figures in context, too.

DEA gets $246 million this year unless Congress sees fit to increase it. The Federal witness protection program, which has on its payroll convicted murderers, rapists, criminals, and so on and so forth, some of whom would continue to commit murders on the payroll of the U.S. Government, has an estimated budget for fiscal 1982 of $24 million. I am not saying it is coming out of DEA, but in comparison, you are talking about one-tenth of the resources which we put into drug enforcement going into this kind of program. You add up how much we spent on ABSCAM and related kinds of activities, in the millions of dollars, you add up the huge increase in funding for white collar crime efforts by the Justice Department, you compare what is actually being spent for narcotics enforcement in this country, and it is actually stunning.

There is an enormous misallocation of priorities in this area, which leads us to some very serious questions of whether this is simply a mistake on the part of the Federal Government or whether this is actually a policy decision among certain contaminated networks of the Federal Government.

I raise that point from a very serious standpoint. Serious allegations have arisen in Italy over the past months and the past year that individuals dispatched by, among others, Alexander Haig, our Secretary of State, individuals connected with the Justice Department, have been implicated in having direct ties to top members of the Socialist Party in Italy who have been identified by the numerous investigations going on in that country as being closely tied to top international drug running and terrorist kinds of organizations. The head of the military intelligence has identified the number of the bank account which Haig's official emissary to Italy, Michael Ledeen, shares with a top official of the Socialist Party, whose tracks lead back to the Sicilian drug traffic.

Sicilian separatist Michele Papa, an identified gun and drug runner and Socialist Party member, who was Billy Carter's calling card into Libya, has referred to ABSCAM prosecutor Thomas Puccio as "my good friend Thomas."

Very serious questions have arisen throughout a variety of investigations in Italy. Italy is going forward on these investigations as a matter of national survival. They know unless they close down terrorism and drug running and some of the names beyond suspicion, so-called, their government is going to cease to exist.

In the course of those investigations, I think some serious allegations have arisen about sections of the Justice Department and State Department in this country which bear looking into.

To our way of thinking, the funding request for narcotics enforcement is not going to be resolved unless those questions are looked at. I don't think we are dealing with a good faith effort in this country when we look at the destruction of the next generation of young people, which is taking place at a very rapid clip, when you look at what is happening to our economy in terms of the inflationary impact of illegal money flows.

The budget which is awarded for DEA, Customs, and narcotics is totally inadequate. It is incomprehensible, I think, to the majority of American population, unless there is more than a misallocation of priorities involved, unless there are some policy questions asked. So this is a plea for more than just funding for the DEA, although it needs to be augmented. I think we have to look at the larger question.

In conclusion, I would like to add the Anti-Drug Coalition has asked they be associated with our remarks.

PREPARED STATEMENT

Senator WEICKER. Thank you very much. Your remarks in their entirety will be placed in the record at this point.

[The statement follows:]

STATEMENT OF SUSAN KOKINDA

Thank you, Mr. Chairman. Last year, the National Democratic Policy Committee testified before these subcommittees on the inadequate state of law enforcement, and especially narcotics enforcement, appropriations. We situated that inadequacy within the context of the larger problem--the misdirection of law enforcement funds into the creation of crime, through such operations as ABSCAM/BRILAB and such programs as the Federal Witness Protection Program, rather than the prevention of crime.

Unfortunately, the intervening year has seen no improvement in this situation.

Narcotics Enforcement Funding and Organization: Coupled with its submersion under the FBI, the inadequate funding base of the Drug Enforcement Administration continues to leave the United States crippled in the war against drugs. The Administration request for FY83 funding for the DEA is $246,945,000 an increase of 16 million over the estimated FY82 funding of $230 million. This does not even keep pace with inflation. And while the permanent staffing is to remain authorized at 3,953, the DEA will cut 100 man/years from its actual staff. Furthermore, there is widespread concern that the concentration of federal efforts on the South Florida drug problem -- an admirable effort in itself -- will leave the rest of the country short-staffed unless an overall increase in agents is mandated.

Customs is afforded only a 4.1 percent increase in funding, a de facto cut when inflation is accounted for. Estimates are that Customs will loose 1200 inspectors. The State Department's narcotics office is taking a cut of 5.1 percent.

A recent issue of "High Times," the drug lobbies magainze, gloats that the administration is "waging a war on drug law enforcement" and reports that the DEA's overseas capability, especially in the area of heroin interdiction is practically non-existant. The systematic gutting of the overseas offices of the DEA, accomplished during the Carter Administration, has not been reversed. As we indicated last year, we could not carry out a "French connection" style bust if we wanted to.

The funding question is equalled in the magnitude of damage done to federal narcotics enforcement by the reorganization of the DEA. The FBI will now be carrying out investigations of narcotics matters involving organized crime and involving the financial aspect of drug trafficking, not DEA. Furthermore, DEA's regional offices are to be dismantled and agents will report directly to the FBI.

Policy Questions: This raises serious policy questions for us. Evidence has arisen over the course of the past several months, in a variety of official investigations in Italy, which implicate individuals and sections of the Department of Justice and the Department of State with elements tied to drug-running (and gun-running and terrorism) in Italy. After reviewing this evidence, the NDPC has concluded that we are not dealing with a good-faith effort to carry out narcotics enforcement in the United States, but that those efforts are being impeded by contaminated elements in the government.

It would be instructive, and indeed imperative, for this subcommittee and for the authorizing committees to look at the Italian investigations, both as a model for the kind of drug enforcement effort needed in the United States, and for clues as to why that is not occuring here.

In January, 1982, following a speech by Italian Prime Minister Spadolini which announced that "organized crime, like the Sicilian Mafia, and terrorism are two interlinked aspects of the threat to our democratic institutions," the Italian national security council prepared a six point plan to fight against organized crime, terrorism and the banking side of the drug mafia. On January 25, Sicilian prosecutor Giovanni Falcone handed down 75 criminal indictments against a heroin ring in Sicily which was trafficking $600 million worth of heroin to the United States, out of an estimated $25 billion in illegal drugs processed out of Sicily each year. Among those indicted was financier Michele Sindonna, now serving time in a New York jail for the Franklin National Bank failure.

Cut of these investigations and other arrests emerged a pattern: that the Italian Socialist Party, the Sicilian mafia and separatists, and the Red Brigades were closely linked and were tied together at the top by international financial interests centered in Switzerland. This brings us back to the question of the State and Justice Departments and why the United States continues to cripple its own drug enforcement efforts.

Alexander Haig's official emissary to Italy, Michael Ledeen of the CSIS at Georgetown, was identified by the head of Italian Military Intelligence as sharing a numbered Swiss bank account with a top official of the Socialist Party for the purpose of funnelling money into the campaigns of Socialist Party head Bettino Craxi. And Ledeen's ties to the Socialist Party also lead directly back to Michele Sindonna.

In terms of the Justice Department, one need only look at the networks which carried out the Billygate coverup to understand why the U.S. is shooting itself in the foot in drug enforcement. Sicilian separatist Michele Papa, an identified gun- and drug-runner and Socialist Party member, was Billy Carter's calling card into Libya. Papa identifies Brooklyn ABSCAM prosecutor Thomas Puccio as "my good friend Thomas." Furthermore, ABSCAM conman Mel Weinberg admits to funding the Red Brigades in the weeks prior to the Moro kidnapping. This, and accumulating evidence in Italy, indicate that the contaminated networks in the Justice Department and in the Southern District of New York, which both ran ABSCAM and covered up Billygate, are keep- the Sicilian connection open.

In conclusion, we have to ask ourselves what the law enforcement policy of the United States is, when Italian authorities raise questions about the links of U.S. officials to drug-running and terrorist networks in Italy and we give those officials more money to prosecute political entrapment operations like ABSCAM; when we give those officials $27 million to carryout the Federal Witness Protection Program whose "protectees" are engaged in murder, drug-running and terrorism; and when let those officials gut the narcotics enforcement capacity of the U.S. through inadequate funding and reorganization.

This is not merely a request for adequate funding for our narcotics enforcement capacity. It is astounding that an Administration which understands the need for an adequate defense should fail to understand the need for adequate funds in this area. However, it is clear that the funding question will not be solved until the larger policy questions are dealt with.

The National Anti-Drug Coalition has informed me that it would like to be associated with these remarks.

Thank you, Mr. Chairman.

ADDITIONAL SUBMITTED STATEMENTS

Mr. GORSON. Mr. Chairman, can I just mention, I see the Airport Operations Council is not here, but I commend to you his testimony on the ASIST program.

Senator WEICKER. Their statement will be included along with several others that have been submitted.

[The statements follow:]

STATEMENT OF J. J. CORBETT

Mr. Chairman, I am J. J. Corbett, AOCI Vice President - Federal Affairs of the Airport Operators Council International (AOCI). The Airport Operators Council International is the association of the primarily local governments that own and operate the principal airports served by the scheduled airlines in the United States and around the world. Our member airports annually enplane more than 90% of the total domestic and virtually all of the U.S. international scheduled airline passenger and cargo traffic. Worldwide, our international member airports enplane two-thirds of all airline passengers on six continents (Attachment A).

On behalf of our U.S. members, and more particularly the largest 25 U.S. international airports that this year will receive more than 30 million arriving international passengers, we are grateful for this opportunity to comment on the FY'83 budget proposal for the port of entry inspection program of the Department of Justice's Immigration and Naturalization Service (INS).

- Airports and Facilitation

At the beginning it might be helpful to more fully describe the role of the airport operator and its community in the U.S. international facilitation program. For foreign visitors travelling by air, the airport and its reception and Federal Inspection Services (FIS) (Customs, Immigration and Agriculture) create their first impressions of the United States and, more particularly, of the city of arrival. How these visitors are treated in the inspection process is thus highly important to the community operating that airport.

Returning U.S. nationals and residents often view the Federal inspection and clearance process somewhat differently, as a necessary but burdensome process seemingly designed to test their patience after a long, wearying international journey. For all these arriving international air travelers, the airport operator and its community wants to assure a good impression, a warm welcome or a welcome home.

More specifically, while the airport operator has to provide the space and facilities in which the Federal Inspection Services undertake their screening of arriving passengers and baggage, it can neither directly influence the procedure used by the Federal agencies nor assure that adequate manpower will be available to avoid processing delay. Those are Federal Governmental decisions but we have had some suggestions for improvement that the FIS agencies are now responding to.

We have long urged that the Federal Inspection Services should, in close cooperation with U.S. international airlines and the operators of our nation's international airports, adopt all practicable measures to facilitate international air travel and to prevent unnecessary delays to aircraft, crews, passengers, baggage and cargo.

While Federal inspection and clearance procedures must emphasize the protection of the public from smuggling activities, particularly of narcotics, and from contraband agricultural products, plant pests, communicable diseases and the illegal entry of aliens, we believe that these objectives are consistent with a vastly improved international aviation facilitation program.

- Survey of Inspection Services at U.S. International Airports

Mr. Chairman, our 1981 survey of U.S. international airports (Attachment B) indicates that the fourteen primarily largest airports enplaning some 64% of all arriving international air passengers judged their Federal Inspectional Services as Inadequate. In contrast, an additional eleven international, primarily smaller, airports handling 14% of all air arrivals judged their FIS services to be Adequate.

A reading of the narrative responses from the international airports judged Inadequate is highly disturbing. Unmanned Customs and INS inspection booths and two-hour passenger processing delays are often cited. Contributing factors to passenger congestion are airline peaking of flights and inadequate facilities in airport arrival halls to handle all the passengers aboard jumbo jets that often arrive simultaneously.

There are, however, three recurring themes in these reports from around the nation. First, the numbers of arriving international air passengers in recent years has increased 5% to 15% annually. Next, in those same years, the FIS agencies as a group have been unable to increase their airport inspectional manpower levels in proportion to the increasing workload or at all. Thus, the net result has been unacceptable increases in average processing delays for arriving passengers at too many major international airports.

- Sole Remaining Options: More Efficient Inspection Process or More Manpower

All indications are that additional increasing delays simply will not be tolerated by the travelling public. The only remaining options are these:

(1) Either the FIS agencies must modify their inspection process to achieve the same or improved enforcement results in less time;

or

(2) The Congress must increase INS and other FIS agency inspectional forces in some proportion to traffic increases.

Mr. Chairman, because of the budget constraints facing the Congress as exemplified by the tight budget proposed by the Administration for INS in FY'83, we hope you will continue to support efforts within INS to modernize its passenger inspectional process at all U.S. international airports.

- ASIST Test Program Has Been Highly Successful

This Congress deserves a large measure of appreciation for its efforts in the FY'82 Customs authorization process to encourage Customs, Immigration and Agriculture to undertake some innovative steps to improve their inspection processes without diluting the enforcement function.

Mainly because of Congressional and local pressures, the FIS agencies in January completed a six-month test of a more efficient and facilitative inspection process at Los Angeles and Miami International Airports called ASIST (Accelerated Specialized Inspection System Test). While the agencies have recently completed the analysis of their data from the test and have sent their recommendations for the future to the Treasury Department for eventual submission to Congress, the General Accounting Office has already completed and released its report on the six-month test program at the those two airport locations.

In its March 22, 1982 Report, One-Stop Inspection System Speeds the Entry of International Travelers (GGD-82-62), the Comptroller General found that the ASIST process speeds the entry of arriving air passengers by an average of 23 minutes in Miami and 17 minutes in Los Angeles (reductions of 39% and 35%, respectively, from pre-ASIST times).

Mr. Chairman, the officials of INS have been most cooperative in attempting to find ways, such as ASIST, to facilitate passenger processing while not reducing statutory protections. They are to be commended for their willingness to try new processes.

- AOCI Recommendations to Congress

1. Since the ASIST program has already proven itself in the two airport test locations, it should also be implemented, with modifications as needed, by INS and the other FIS agencies at as many other U.S. international airports of entry as can be configured to accept it for Summer 1982.

2. ASIST is not a panacea. Adequate levels of FIS inspectors still must be provided to service increasing numbers of international arrivals. It is our understanding that INS will be able to provide approximately the same level of manpower at U.S. airports under the President's FY'83 Budget proposal for Summer 1983 as in Summer 1982. Unless Congress allows more manpower over the long term in some proportion to passenger traffic increases, any improvement during FY'83 and thereafter will have to be by process and not by numbers of inspectors.

3. In contrast to present practice, we believe that the international traveler should pay for part of the cost of the FIS airport passenger inspection process. We have

proposed that the $3 international passenger tax that historically has been imposed to cover the U.S. Government's cost of providing safe airport and airway facilities should be increased, as proposed in pending legislation, by $2 to a total of $5 to cover, as well, about half of the direct costs incurred by the FIS agencies for passenger processing.

4. Ultimately, AOCI members believe that Congress should move to a single border management agency to handle all passenger inspection functions. The cross-training that has occurred between Customs and INS as part of the ASIST test program is a progressive step toward that broader objective.

- Early Final Decision on National Implementation of ASIST Needed

Beyond its approval of full FY'83 funding for INS, this Subcommittee in our view can be most helpful in assuring that INS and the other FIS agencies decide on early implementation of the ASIST inspection process without any unnecessary delay.

There is no reason why those agencies shouldn't soon be ready to testify, along with the General Accounting Office, before your Subcommittee on a final decision on ASIST and, hopefully, to detail at that same time a nationwide implementation program for this summer.

Airport operators need as early a decision as possible on the ASIST program because many airport communities (Los Angeles, Seattle, New York, Minneapolis-St. Paul) are in the final design phase for new and costly international arrival facilities and they need to know the future pattern of traffic flow to be used by the FIS agencies to complete those designs.

In summary, Mr. Chairman, we would appreciate any assistance your Subcommittee could offer -- through early hearings on the ASIST test results -- to assure other communities that ASIST, when approved and as modified, will not be denied them for the coming summer season.

Thank you.

ATTACHMENT A

AIRPORT OPERATORS COUNCIL INTERNATIONAL ROSTER OF MEMBERS

The Airport Operators Council International (AOCI) is the association of the primarily local governments that own and operate the principal airports served by the scheduled airlines in the United States and around the world. AOCI member airports annually enplane more than 90% of the total domestic and virtually all of the U.S. international scheduled airline passenger and cargo traffic. Worldwide, AOCI international member airports enplane two-thirds of all airline passengers on six continents. AOCI represents only its United States membership in testimony before Congress and in appearances before Executive Branch agencies.

UNITED STATES MEMBERS

ALABAMA:	Birmingham - Department of Aviation
ALASKA:	Alaska - Department of Transportation & Public Facilities
	Juneau - City and Borough of
AMERICAN SAMOA:	Pago Pago - Government of
ARIZONA:	Phoenix - Aviation Department
CALIFORNIA:	Bakersfield - Kern County Department of Airports
	Burbank - Burbank/Glendale/Pasadena Airport Authority
	Fresno - City of
	Los Angeles - Department of Airports
	Oakland - Board of Port Commissioners
	Palm Springs - City of
	Riverside - City of
	Sacramento - County of
	San Diego - Unified Port District
	San Francisco - City and County of
	San Jose - City of
	Santa Ana - Orange County Airport
	Santa Barbara - Municipal Airport
	Stockton - San Joaquin County
COLORADO:	Colorado Springs - City of
	Denver - City and County of
	Pueblo - Memorial Airport
DISTRICT OF COLUMBIA:	Washington - Metropolitan Washington Airports
FLORIDA:	Daytona Beach - Regional Airport
	Fort Lauderdale - Board of Broward County Commissioners
	Fort Myers - Lee County Airport
	Jacksonville - Port Authority
	Melbourne - Airport Authority
	Miami - Dade County Aviation Department
	Orlando - Greater Orlando Aviation Authority
	Palm Beach - Board of County Commissioners
	Pensacola - City of
	Sarasota-Manatee - Airport Authority
	Tampa - Hillsborough County Aviation Authority
GEORGIA:	Albany - Albany-Dougherty County Airport
	Atlanta - Department of Aviation
	Savannah - Airport Commission
GUAM:	Guam - Government of
HAWAII:	Honolulu - Department of Transportation
ILLINOIS:	Chicago - Department of Aviation
	Moline - Rock Island County Metropolitan Airport Authority
	Peoria - Greater Peoria Airport Authority
	Rockford - Greater Rockford Airport Authority
	Springfield - Airport Authority
INDIANA:	Fort Wayne - Board of Aviation Commissioners
	Indianapolis - Airport Authority
	South Bend - St. Joseph County Airport Authority

IOWA:	Cedar Rapids Des Moines - Department of Aviation Mason City - Municipal Airport Commission
KANSAS:	Topeka - Metropolitan Airport Authority Wichita - Airport Authority
KENTUCKY:	Lexington - Lexington-Fayette Urban County Airport Board Louisville - Regional Airport Authority of Louisville and Jefferson County Paducah - Airport Corporation
LOUISIANA:	Baton Rouge - Greater Baton Rouge Airport District Lafayette - Airport Commission New Orleans - Aviation Board
MAINE:	Bangor - City of
MARIANA ISLANDS:	Saipan - Bureau of Transportation Saipan - Mariana Islands Airport Authority
MARYLAND:	Maryland - State Aviation Administration
MASSACHUSETTS:	Boston - Massachusetts Port Authority
MICHIGAN:	Detroit - Board of Wayne County Road Commissioners Flint - City of Freeland - Tri-City Airport Commission Grand Rapids - Kent County Aeronautics Board Kalamazoo - Municipal Airport Lansing - Capital Region Airport Authority Muskegon - County Airport
MINNESOTA:	Minneapolis-St. Paul - Metropolitan Airports Commission
MISSISSIPPI:	Gulfport - Gulfport-Biloxi Regional Airport Authority Jackson - Municipal Airport Authority Laurel/Hattiesburg - Pine Belt Regional Airport Authority
MISSOURI:	Columbia - City of Kansas City - Aviation Department St. Louis - Airport Authority St. Louis County - Spirit of St. Louis Airport Springfield - Municipal Airport Board
MONTANA:	Great Falls - International Airport Missoula - County Airport
NEBRASKA:	Lincoln - Airport Authority North Platte - Airport Authority Omaha - Airport Authority
NEVADA:	Las Vegas - Clark County Department of Aviation Reno - Airport Authority of Washoe County
NEW HAMPSHIRE:	Manchester - Airport Authority
NEW JERSEY:	Trenton - Mercer County Airport Atlantic City - Airport Utility
NEW MEXICO:	Albuquerque - City of
NEW YORK:	Binghamton - Broome County Airport Buffalo - Niagara Frontier Transportation Authority New York - Metropolitan Airports Authority New York - Port Authority of New York and New Jersey Syracuse - Department of Aviation White Plains - Westchester County Airport
NORTH CAROLINA:	Asheville - Regional Airport Authority Charlotte - City of Greensboro-High Point - Airport Authority Raleigh - Raleigh-Durham Airport Authority

OHIO:	Akron-Canton - Regional Airport Cincinnati - Kenton County Airport Board Cleveland - City of Columbus - Port Columbus International Airport Dayton - Department of Aviation Toledo-Lucas County - Port Authority Youngstown - City of
OKLAHOMA:	Oklahoma City - Airport Trust Tulsa - Airport Authority
OREGON:	Portland - Port of
PENNSYLVANIA:	Lehigh-Northampton - Airport Authority Middletown - Pennsylvania/DOT Bureau of Aviation Philadelphia - Department of Commerce Pittsburgh - Greater Pittsburgh International Airport
PUERTO RICO:	San Juan - Puerto Rico Ports Authority
RHODE ISLAND:	State of Rhode Island - Division of Airports
SOUTH CAROLINA:	Charleston - County Aviation Authority Columbia - Metropolitan Airport Greenville-Spartanburg - Airport Commission
TENNESSEE:	Chattanooga - Municipal Airport Knoxville - Metropolitan Airport Authority Memphis-Shelby County - Airport Authority Nashville - Metropolitan Airport Authority
TEXAS:	Austin - City of Dallas - Department of Aviation Dallas/Fort Worth - Regional Airport Board El Paso - City of Houston - City of San Antonio - Department of Aviation
UTAH:	Salt Lake City - Airport Authority
VERMONT:	Burlington - Airport Commission
VIRGINIA:	Newport News - Peninsula Airport Commission Norfolk - Port and Industrial Authority Richmond - Capital Region Airport Commission
VIRGIN ISLANDS:	St. Thomas - Virgin Islands Port Authority
WASHINGTON:	Seattle - Port of Seattle - King County Airport (Boeing Field) Spokane - Airport Board
WISCONSIN:	Janesville - Rock County Airport La Crosse - Municipal Airport Milwaukee County - Department of Public Works
WYOMING:	Casper - Natrona County International Airport Cheyenne - Airport Authority Rock Springs - Sweetwater County Airport Authority

AOCI NON-U.S. MEMBERS

AUSTRALIA:	Canberra - Department of Transport
AUSTRIA:	Vienna - Airport Authority
BERMUDA:	Hamilton - Ministry of Marine and Air Services
BRAZIL:	Brasilia - Empresa Brasileira de Infra-Estructura Aeroportuaria (INFRAERO)
CANADA:	Ottawa, Toronto & Montreal - Transport Canada
DENMARK:	Copenhagen - Airports Authority
DOMINICAN REPUBLIC:	Santo Domingo - Aeropuerto Internacional de Las Americas

EL SALVADOR:	San Salvador - Comision Ejecutiva Portuaria Autonoma
ENGLAND:	London - (British Airports Authority) Heathrow, Gatwick & Stansted Scotland - Aberdeen, Edinburgh, Glasgow & Prestwick
FRANCE:	Paris - Aeroport de Paris
GERMANY:	Cologne/Bonn - Flughafen Koeln/Bonn GmbH Dusseldorf - Flughafen Dusseldorf GmbH Frankfurt/Main - Flughafen Frankfurt/Main Aktiengesellschaft Hamburg - Flughafen Hamburg GmbH Hannover - Flughafen Hannover Langenhagen GmbH Munich - Flughafen Munchen GmbH
HAITI:	Port-Au-Prince - Aeroport International Francois Duvalier
HONG KONG:	Hong Kong - Civil Aviation Department
IRAQ:	Baghdad - State Organization of Roads and Bridges
IRELAND:	Dublin - Aer Rianta/Irish Airports Authority
JAMAICA:	Kingston - Airport Authority of Jamaica
ISRAEL:	Tel Aviv - Israel Airports Authority
ITALY:	Milan - Societa p. Az. Esercizi Aeroportuali (SEA) Rome - Aeroporti di Roma S.p.A
JAPAN:	Osaka - Kansai (Osaka) International Airport Terminal Building Co. Ltd. Tokyo - Japan Airport Terminal Company, Ltd.
KOREA:	Seoul - Korea International Airports Authority
MEXICO:	Mexico City - Aeropuertos y Servicios Auxiliares (ASA) Mexico City - Direccion General de Aeropuertos (DGA)
NETHERLANDS:	Amsterdam - Schiphol Airport Authority
NETHERLANDS ANTILLES:	Sint Maarten - Juliana International Airport
NEW CALEDONIA:	Noumea - Chambre de Commerce et d'Industrie
NEW ZEALAND:	Wellington - Ministry of Transport
NIGERIA:	Lagos - Nigerian Airports Authority
PHILIPPINES:	Manila - Bureau of Air Transportation
PORTUGAL:	Lisbon - Aeroportos e Navegacao Aerea (ANA)
SAUDI ARABIA:	Jeddah, Riyadh & Eastern Province - International Airports Projects
SRI LANKA:	Colombo - Airports Authority of Sri Lanka
SWITZERLAND:	Zurich - Civil Aviation Department
TAHITI:	Papeete - Societe D'Equipement de Tahiti et des Iles
TAIWAN:	Taipei - Civil Aeronautics Administration
VENEZUELA:	Caracas - Instituto Autonomo Aeropuerto Internacional de Maiquetia

ATTACHMENT B

TABULATION OF SURVEY ON ADEQUACY OR INADEQUACY OF U.S. INTERNATIONAL INSPECTIONAL SERVICES AT U.S. AIRPORTS SPRING/SUMMER 1981

SUMMARY

I. U.S. International Airports With **INADEQUATE** Federal Inspection Services (with each's % share of total arriving international air passengers):

New York (JFK)	22% **
Miami	15% *
Los Angeles	7% *
Honolulu	6% **
San Francisco	3% **
Chicago	3% **
Houston	2% **
Seattle	1% **
Tampa	1% **
Detroit	1%
Baltimore/Washington	1%
Ft. Lauderdale	1%
Minneapolis/St. Paul	1% **
Denver	1%
	64%

II. U.S. International Airports With **ADEQUATE** Federal Inspection Services (with each's % share of total arriving international air passengers)

Boston	3%
Dallas/Ft. Worth	2% **
Atlanta	1%
Philadelphia	1%
Kansas City	1%
Bangor	1%
Las Vegas	1%
Portland (OR)	1%
El Paso	1%
Syracuse	1%
San Diego	1%
	14%

* Indicates the two locations, with 22% of total arriving international passengers, that have been selected by Federal Inspection Services (FIS) for summer/fall 1981 tests of GAO "one-stop" inspection system to reduce processing delays.

**** Indicates the additional nine locations, with an additional 41% of arriving international passengers, that would like the GAO "one-stop" inspection system implemented as well at their international airport facilities this Summer and Fall (without cost to the Federal Government for facilities modification) so as to reduce anticipated arriving passenger processing delays (from 2, 3, 4 hours).**

(Listed in Declining Order of Total U.S International Passengers (%))

I. THE FOLLOWING AIRPORTS FIND THAT THE U.S. INTERNATIONAL INSPECTIONAL SERVICES AT THEIR AIRPORT(S) ARE: INADEQUATE

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY (22%)

Serious Delay Problems This Year

The Port Authority anticipates serious delay problems this summer at Kennedy International Airport. Federal Inspection Services are provided at five locations, four of which are operated by airlines - American, British, Pan American and TWA - and the International Arrivals Building, used by most of the foreign flag airlines, which is operated by the Port Authority.

Principal cause of these delays has been inadequate federal inspection, although bunching of aircraft arrivals at the IAB has contributed to the delays at times. Lack of sufficient Immigration inspectors creates serious problems at the IAB, TWA, American and British terminals, while a lack of Customs inspectors causes delays at IAB and Pan Am terminals. An additional 30 Immigration and 16 Customs inspectors are necessary at Kennedy this summer.

Typically, on a peak day, with long lines awaiting clearance in IAB, only 50% of the Immigration booths are manned and a somewhat greater percentage of the Customs booths are staffed. As a result, backups occur. Last summer, at the IAB alone, we were forced to hold 236 aircraft an average of 20 minutes with some flights held as long as an hour. During the first five months of 1981, before the peak summer season, 122 aircraft were detained and 30,000 passengers delayed. At times, clearance takes 2½ hours.

Possible One Stop Clearance

We believe a one-stop procedure in which one inspection officer, representing both Immigration and Customs, would examine all arriving passengers, prior to baggage delivery, could be implemented this summer and would be helpful. There would have to be flexibility in how this is implemented with consideration given to the existing physical constraints of each of the international terminals at Kennedy which could result in citizen and alien inspection being separately located. The U.S. citizen by-pass of INS which we presently have at Kennedy is a step in the right direction.

POSSIBLE TEST SITE: The Port Authority of New York and New Jersey endorses the GAO "one-stop" inspection system and urges that it also be tested at the John F. Kennedy International Airport this Summer and Fall. The Port Authority offers full cooperation, financial and managerial, in any extension of "one-stop" to Kennedy and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

Without additional manpower or changes in procedures we will be in serious trouble throughout the airport. We anticipate an increase in the number of passengers held aboard aircraft as inspection area saturation becomes more frequent. One carrier has claimed it will reduce flights into Kennedy this summer if the problem is not solved. We anticipate that other carriers would do the same in the future.

These expectations could fail to materialize if foreigners become alienated by these excessive delays and cancel or select alternate, non-U.S. destinations for their trips. Such action would not only have a detrimental effect on airport activity, but also adversely impact the regional economy and the U.S. balance of payments.

MIAMI INTERNATIONAL AIRPORT, FLORIDA (15%)

Serious Delay Problems This Year

The growth in the number of international passengers arriving at the Miami International Airport over the four year period 1976-1980 suggests the magnitude of current problems.

In 1977 only one month exceeded 200,000 arriving international passengers. In 1979, ten months exceeded 200,000 passengers and one month exceeded 300,000 passengers. In 1981 airline schedule data indicate that eight months will exceed 300,000 passengers and three months will exceed 400,000 international passengers.

Preliminary data from the international airlines indicate average days of 14,000 to 15,000 F.I.S. arrivals can be expected at MIA over the complete four-month period from June 1 to September 30, 1981, with peak days of 18,000 to 20,000 F.I.S. arrivals during July and August 1981. (As an indication of 1980-81 growth: during the summer of 1980 there were approximately 50 flights per week from Europe to Miami; during summer 1981 there will be approximately 90 flights per week. During the summer of 1980 approximately 17,000 seats per week were scheduled from Europe to Miami; during summer 1981 there will be over 28,000 seats per week.)

Present projections indicate that approximately 25% of the total estimated 4,000,000 F.I.S. arrivals at MIA during 1981 will be U.S. citizens and approximately 75% will be foreign citizens. This would represent approximately one million U.S. citizen arrivals; slightly under one million foreign citizens from Europe, slightly over one million foreign citizens from South America and approximately one million foreign citizens from Central America and the Caribbean combined.

With over 800 airline flights per day, MIA is a major international-to-domestic connecting hub, and on many international flights over 50% of the passengers are connecting to domestic flights. The international-domestic airline rule permits these passengers to be ticketed through to, and transfer onto, a domestic flight leaving MIA one and a half hours after the arrival time of their international flight. This allows 45 minutes to pass through Immigration and Customs, 15 minutes to walk to the relevant domestic airline check-in desk, and 30 minutes to check in and walk to the domestic airline departure gate. Existing passenger clearance times, therefore, virtually guarantee that many of these international-to-domestic transferring passengers will miss their connecting flights, often causing great personal distress, particularly to families with children.

Possible One Stop Clearance

DESIGNATED TEST SITE : The Federal inspection agencies have chosen Miami International Airport as one Summer 1981 GAO "One-Stop" inspection test site. Airport management anticipates that the improved test process will commence about July 17. Expenditures of about $100,000 for carpentry and other modifications are estimated. Cooperation between the Federal agencies and the airport proprietor are good.

Longer Term Help

Miami International Airport anticipates that the one-stop clearance process will be successful. Accepting that O.M.B. has put a cap on both manpower hiring and overtime, in an effort to balance the Federal Budget, and, therefore, that the MIA F.I.S. supervisors can neither increase their existing staff, nor work their existing staff longer hours — and yet total F.I.S. arrivals will increase 20% and foreign citizen arrivals will increase 30% during 1981 — we must obviously permanently change the present F.I.S. system of inspection, and provide some means for airports to assist financially in the hiring of inspectors during any federal freeze of inspector positions. Changes recommended are:

a. All non-critical staff of the Immigration and Customs Services should be redeployed to the front line, to the major gateway airports with high growth rates, such as MIA, to directly serve the public during peak arrival months at these airports.

b. The U.S. Customs system procedures should immediately be changed more towards the "Red/Green" system, especially for the growing volumes of European visitors with full passports and valid multiple-entry visas. In this regard, the U.S. Customs service should make greater use of computer-based profile/random sampling procedures.

c. The Immigration procedures for the large volumes of European "Inclusive Tour" passengers must be simplified.

d. The National and Regional Headquarters offices of the INS should cease their practice of drawing on MIA Immigration inspectors to handle the processing of illegal immigrants not entering at the Miami International Airport.

e. The high growth airports such as MIA should be permitted, and indeed encouraged, to pay completely for the hiring and staffing of all new F.I.S. staff required above present levels during any budget freeze period. MIA would recoup these increased operating costs through increased productivity of our physical facilities.

LOS ANGELES INTERNATIONAL AIRPORT, CALIFORNIA (7%)

Serious Delay Problems This Year

Los Angeles International Airport is one of the largest airports in the United States. It ranks third in the U.S. in total passengers and probably first or second if this ranking considers the number of passengers who originate from or are destined for the Los Angeles area. In calendar year 1980 over 5,650,000 international passengers were handled through this airport, an increase of more than 13 percent over 1979.

Even though domestic air travel continues to decline in the United States, international travel at LAX continues to experience record growth. This growth has far outstripped our ability to provide facilities to process these international passengers. A long term solution is now in the advanced designed stage. Construction of the new West Terminal will begin early next year with completion scheduled in advance of the 1984 summer Olympics in Los Angeles. This new international facility will be nearly as large as the combined square footage of all the existing passenger facilities at LAX.

It it our experience here in Los Angeles that the Immigration Service has been heavily impacted by this influx of international travel since this growth is largely the result of non-U.S. citizens coming to this country for business or pleasure.

However, as an interim solution to the congestion and delay problems which have been so prevalent, last year the Department undertook a program to erect large inflated structures adjacent to the current international facility which provides additional baggage claim. More importantly, they more than double the size of federal inspection service space available to process international travelers.

Possible One Stop Clearance

DESIGNATED TEST SITE : The Federal inspection agencies have chosen Los Angeles International Airport as one Summer 1981 GAO "One-Stop" inspection test site. Airport management anticipates that the improved test process will commence about August 1. Expenditures of about $150,000 for carpentry and other modifications are estimated. Cooperation between the Federal agencies and the airport proprietor are good.

Longer Term Help

Los Angeles International Airport anticipates that the one-stop clearance process will be successful. An early decision for permanent implementation of this process is needed from the inspection agencies so that the design for the new West Terminal can incorporate the final inspection process. Construction of such a new facility must be completed for the 1984 Summer Olympics in Los Angeles.

HONOLULU INTERNATIONAL AIRPORT, HAWAII (6%)

Serious Delay Problems This Year

We are certain serious delay problems will be repeated this summer in the International Arrivals Building at Honolulu International Airport.

Subsequent to the completion of the International Arrivals Building in 1972, continued increases in passenger arrivals, compounded by the high concentration of multiple and concurrent aircraft arrivals within a one-half or one-hour period, have overburdened the capacity and processing capability of the facility.

Modifications were made to the Customs processing area (ground level) in December 1979 by the conversion of the selective inspection system (SIS), originally installed, to CAPIS to accommodate the increased passenger demand and improve processing time of the facility. This system was completed and in operation as of January 1980.

However, the system again is overloaded as the facility cannot accommodate the peak-hour surge of foreign arrival passengers. Currently, average peak-hour passenger processing through the system (from time of deplaning to exiting Customs) has taken between 1 hour 30 minutes to 1 hour 45 minutes, and in some instances, in excess of 2 hours. At the present time passengers are being held in the aircraft until the immigration hall is capable of processing additional passengers.

The high concentration of aircraft arrivals within the one-half and one-hour periods and the surge of passenger arrivals far exceeds the present space and processing capabilities of both Immigration and Customs Inspection facilities.

Holding rooms are not provided to accommodate passengers during peak-hour arrivals. When the immigration inspection facility is filled to capacity (presently set at 1,000 passengers) arriving passengers are held at the aircraft, or if security permits, at the arrival gate.

Upon entering the facility, passengers are confronted with long queuing lines, lengthy processing times, and congestion occurring at inspection areas, baggage carrousels, and post-processing activities at the Customs level.

Current peak-hour processing time of 1½ to 2 hours from time of deplaning to time of exiting the customs facility far exceeds the acceptable processing time of 1 hour established by the State Department of Transportation. If improvements to the facility are not provided, processing time is expected to exceed 2½ to 3 hours by 1985 and over 4 hours by the year 2000.

Currently, only 75% of Immigration inspection stations (18 of 24) and 78% of Customs inspection stations (22 of 28) are staffed during peak-hour arrivals.

Possible One Stop Clearance

POSSIBLE TEST SITE : The Honolulu International Airport endorses the GAO "one-stop" inspection system and urges that it also be tested in Honolulu this Summer and Fall. The Honolulu Airport offers full cooperation, financial and managerial, in any extension of "one-stop" to Honolulu and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

By 1985 processing time will take 180 and 138 minutes with 80% and 100% staffing respectively. It should be noted that these times do not include waiting for release from aircraft and waiting for baggage at carousels. This is based on the existing process which includes CAPIS (Customs Accelerated Passenger Inspection System).

SAN FRANCISCO INTERNATIONAL AIRPORT, CALIFORNIA (3%)

Serious Delay Problems This Year

Yes, we anticipate serious delay problems this Summer in our International Arrivals Area. These problems are a continuation of the problems of the past two years. We have attempted repeatedly to get those carriers utilizing our International facilities to space their arrivals so that we might minimize the congestion and delays. We have not been highly successful. Although you may be aware of the critical International passenger processing situation here at San Francisco, I would like to briefly review the serious constraints which exist. In the early 1970's the airport had planned to, in the face of increasing International traffic, enlarge its Federal Inspection Service processing capability. Litigation resulted in delays and significant cost escalations which effectively prohibited proceeding with the project. As International traffic into San Francisco increased, our facilities remained in a marginal condition.

Our processing capabilities approximated 300 passengers per hour until a recent modification which has effectively increased passenger processing 30%. This modification was a rearrangement of the passenger flows within the Customs area. This was not at all an enlargement because physical constraints exist which preclude any enlargement of that area. We are subject to the impacts of foreign slotting and are facing an ever increasing passenger volume.

We have fortunately been able to re-orient our modernization program. Our new International Arrivals facility, presently under construction, is still, however, some two and a half years away from completion. This, of course, means that we will face three peak summer travel periods prior to gaining the much sought after relief.

Aside from the physical constraints, inadequate Immigration manpower continues to plague this airport. Immigration insists upon starting work at 8:00 A.M. when International Arrivals, especially in the spring, consistently arrive ahead of schedule. Additionally, the airlines in general give a lower priority to incoming flights than departing flights and fail to deliver 'hold' bags in a timely manner.

The Immigration Service supplies manpower on a 60-1 ratio, whereas Customs supplies it on a 25-1 ratio. Since the International Arrivals area can only handle approximately 400 passengers per hour, this 60-1 ratio is extremely constraining and creates a severe bottleneck in our processing capability. We therefore face three problems.

1. Immigration manpower and the willingness of Immigration to adjust their schedule to the anticipated flight arrival.

2. The physical constraints which we have adjusted as much as possible and now must await the completion of our new International Arrivals facility for further passenger capacity processing increases.

3. The priority which the airlines give to outgoing baggage as well as the method of classifying baggage in foreign ports.

We do not see the situation as significantly improving but we certainly can ameliorate the consequences of our constraints. A Red Door/Green Door approach or the application of the Canadian System here at San Francisco would significantly improve our ability to process passengers and reduce congestion.

Possible One Stop Clearance

The one-step clearance process would be beneficial to San Francisco. In our above response, we suggested a Red Door/Green Door or a modified Canadian system. This, in effect, is a one-step process. If passengers could be questioned prior to receiving their bags, this would significantly improve the flow since during the time questions were being asked, bags could be delivered and passengers could be on their way. Presently, passengers are detained in Immigration because of the manpower ratio and then, once in Customs, are further detained by Customs in the routine checks. This airport would strongly support a "one-step" or Canadian type processing system.

POSSIBLE TEST SITE: San Francisco International Airport endorses the GAO "one-stop" inspection system and urges that it also be tested in San Francisco this Summer and Fall. San Francisco offers full cooperation, financial and managerial, in any extension of "one-stop" to San Francisco and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

With the anticipated growth of International travel over the next five years, especially at San Francisco, and with no increase in Federal manpower levels and no streamlining of the inspection process, the problems will be severe. Currently, there are times when four 747's aircraft and two 727's arrive within 90 minutes of each other and passengers have to wait upwards of two hours, many of them aboard the aircraft at the gate until they can be processed. It is extremely frustrating for the passenger who in many cases has already spent 12 hours on the flight and a serious problem for the airport and the limited Federal employees having to deal with flaring tempers and conditions that are unbearable.

CHICAGO O'HARE INTERNATIONAL AIRPORT, ILLINOIS (3%)

Serious Delay Problems This Year

Chicago O'Hare International Airport is currently experiencing severe federal inspectional service problems due to existing space limitations. This problem is being corrected by a major renovation of these facilities underway at this time. These improvements are expected to provide a 35% increase in the processing of international passengers.

Possible One Stop Clearance

POSSIBLE TEST SITE : The City of Chicago Department of Aviation endorses the GAO "one-stop" inspection system and urges that it also be tested at O'Hare International this Summer and Fall. Chicago offers full cooperation, financial and managerial, in any extension of "one-stop" to Chicago and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

The Department of Aviation in Chicago has recognized the need for additional F.I.S facilities in the long term, based on projected growth. A new international terminal is planned, based on these needs, and streamlining may be possible at the new facility.

HOUSTON INTERNATIONAL AIRPORT, TEXAS (2%)

Serious Delay Problems This Year

Very serious delay problems being experienced already this season. INS booths are seriously understaffed. When two international B-747 aircraft arrive, passengers are lined up virtually from the immigration booths all the way back to the aircraft gates. The interim facility being used in Houston was designed to FIS specifications and physically could handle 750 arriving passengers per hour. With current Federal manpower restrictions, however, not more than 500 passengers per hour are being cleared.

Possible One Stop Clearance

POSSIBLE TEST SITE: Houston International Airrport endorses the GAO "one-stop" inspection system and urges that it also be tested at the Houston International Airport this Summer and Fall. Houston offers full cooperation, financial and managerial, in any extension of "one-stop" to Houston and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

A new terminal for all international arrivals has been approved and design specifications will be completed with a year. Opening of the new international terminal is set for 4-5 years.

SEATTLE-TACOMA INTERNATIONAL AIRPORT, WASHINGTON

Serious Delay Problems This Year

We have for some time endorsed increased manpower in both Immigrations and Customs. The number of agents handling off-season traffic is adequate. However, this same number is not adequate during spring and summer peaks and causes long delays in both Immigrations and Customs. We are reviewing modifications to Customs facilities due to configuration and cueing limitations. At the present time, the inspection agencies are manning just about half of inspection stations.

Possible One Stop Clearance

POSSIBLE TEST SITE : Sea-Tac endorses the GAO "one-stop" inspection system and urges that it also be tested in Seattle this Summer and Fall. Sea-Tac offers full cooperation, financial and managerial, in any extension of "one-stop" to Seattle and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

If no help in either federal manpower or the inspection process is implemented, our international arrival facilities will be virtually impossible to utilize and many incoming flights will be required to hold passengers on board for several hours after long transoceanic flights. This will probably divert some traffic into airports of lesser congestion in the international arrivals area.

TAMPA INTERNATIONAL AIRPORT, FLORIDA

Serious Delay Problems This Year

Sudden significant increases in scheduled international flights with larger aircraft require immediate expansion of facilities and increased FIS manpower. Very little lead time aggravates problem. This Airport Authority is in the process of planning physical changes and will accomplish on expedited basis.

Possible One Stop Clearance

POSSIBLE TEST SITE : The Hillsborough County Aviation Authority endorses the GAO "one-stop" inspection system and urges that it also be tested at Tampa International Airport this Summer and Fall. The Port Authority offers full cooperation, financial and managerial, in any extension of "one-stop" to Tampa and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

Under given assumptions, major problems indicated. However, it is expected that plans currently under way can be implemented avoiding such major problems.

DETROIT METROPOLITAN WAYNE COUNTY AIRPORT, MICHIGAN

Serious Delay Problems This Year

While our position, as stated in the AOCI 1977 survey, remains intact, the severity in the shortage of U.S. Inspection staffing has subsided due to the current economic decline. However, the continued Federal Inspection costs to the carriers (Inspector's Overtime) are in our opinion a deterrent in attracting additional foreign carriers (holding U.S. entry rights) and their instituting new service.

Possible One Stop Clearance

The streamlining of passenger clearance, such as the "one step process," would in the short term be beneficial both to the airport and President Reagan's cutback policy. We do, however, again emphasize the short term aspect for such cutbacks in personnel would greatly magnify the operational problems with an upturn in passenger activity.

Longer Term Help

Cutback in U.S. Inspection personnel, absent streamlining of both the procedures and the manpower charges, will continue to foster the downward trend in international air service.

BALTIMORE/WASHINGTON INTERNATIONAL AIRPORT, MARYLAND

Serious Delay Problems This Year

A sufficient number of Customs Inspectors are available to handle anticipated traffic. However, the availability of Immigration Department manpower is marginal at best.

BWI Airport is equipped with ten Immigration Inspector positions plus a secondary inspection position. Theoretically, if each position is staffed, as many as 1200 U.S. citizens or 300 foreign visitors can be processed each hour. Unfortunately, only four Immigration Inspectors are assigned to BWI and they are frequently detailed to inspection duty elsewhere. There are four additional Immigration Inspectors assigned to the Port of Baltimore who may be detailed to duty at BWI if they are available. A realistic evaluation of this situation with consideration of such personal factors as vacation, sickness and other priority duties leads to the conclusion that under the best of conditions, Immigration can only staff five of the ten available inspection positions at a time. It will take these five inspectors approximately two hours using present procedures and assuming there are few delays for passport and other problems, to clear 300 foreign passengers.

The Customs/Immigration facility at BWI is designed to handle wide body aircraft passenger loads with ten Immigration Inspection positions and eleven Customs Inspector positions. Each of the eleven Customs positions is equipped with a primary computer inspection terminal tied into the Customs automated passenger inspection system (CAPIS) designed to expedite the inspection process. Now the problem: the Customs Service proposes to remove four of the CAPIS terminals from BWI and install them at Pittsburgh, where they now have none. The Customs Service is doing this in spite of an anticipated heavy increase in foreign visitors through BWI. With all eleven CAPIS terminals in use, and using present procedures, Customs can clear 550 American citizens or 330 foreign visitors per hour. Reduced to seven positions, the number of persons cleared under ideal conditions would be 300 American citizens or 210 foreign visitors per hour. This action on the part of the Customs Service will result in a serious degradation of the Customs facility at BWI.

Possible One Stop Clearance

It is strongly recommended that the "one-step clearance process" be coupled with the Immigration Department "citizen bypass procedure." At BWI use of both procedures would solve several anticipated problems; Immigration and Customs personnel would be cross-trained in each other's specialties thereby solving the manpower problem; integration of Customs and Immigration information in the CAPIS computer system will expedite passthrough of passengers. At BWI a great deal more space will be available with the elimination of one set of inspection booths for the comfort of passengers waiting for inspection.

Longer Term Help

Assuming no increase in Immigration Department personnel, BWI will be hard pressed to clear more than two hundred foreign visitors through Immigration inspection within an hour. Obviously with anticipated DC10 loads in excess of three hundred passengers, this is an unacceptable condition.

Assuming that the "one-step clearance process" and the "citizen bypass process" is not adopted, foreign flights arriving at close intervals will saturate the available inspection facilities. The only alternative will be to schedule gate arrival times to accommodate Customs/Immigration capability.

FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT, FLORIDA

Serious Delay Problems This Year

Customs manpower is adequate at present. INS manpower is approximately 40% of authorized positions. International charter flights are up 50% over 1980. This airport is experiencing a movement into the European/United Kingdom market as well as the already heavy Canadian charter market. As aircraft, such as the L-1011-500, arrive with a heavy load factor, serious delays could result in FIS clearance due to the unavailability of INS inspectors. At present, a total of 4 inspectors, including the chief, are available to service both this airport and Port Everglades. With the present freeze on hiring in the federal government, an increase in INS manpower is unlikely in the foreseeable future. At present, the FIS facility is adequate. The facility is used by both Commercial and General Aviation aircraft. The aircraft parking is ground loading. If the number of large aircraft continue to grow, separation of Commercial and G.A. facilities may have to be considered. This will further burden the already short manpower situation.

Longer Term Help

If international tourism continues to rise at its present rate, excessive delays will be encountered in clearance of FIS passengers and aircraft. Approximately 800,000 passengers will be clearing through the International Arrivals process. With the present staffing levels that handle over 200,000 passengers now, delays up to 2 to 3 hours are not inconceivable.

MINNEAPOLIS/ST. PAUL INTERNATIONAL AIRPORT, MINNESOTA

Serious Delay Problems This Year

Manpower for Customs has been reduced and Immigration manpower is very limited. The two agencies are proceeding with a combined work force in an effort to perform as satisfactorily as their limited numbers will permit.

Our present facilities were designed for the supplemental carriers and very minimal activity. Now, with scheduled transatlantic service, the facilities are inadequate. New FIS facilities are in the design stage.

Possible One Stop Clearance

POSSIBLE TEST SITE : The Minneapolis/St. Paul Metropolitan Airports Commission endorses the GAO "one-stop" inspection system and urges that it also be tested in Minneapolis/St. Paul this Summer and Fall. The Airports Commission offers full cooperation, financial and managerial, in any extension of "one-stop" to Minneapolis/St.

Paul and would welcome the visit of a Customs/Immigration feasibility team immediately.

Longer Term Help

We are in the design stage for a new FIS at the Main Terminal Building which will handle 800 passengers per hour. Additional manpower will be essential for the program.

Any constraint to streamlining will create further delays in processing passengers and defeat our efforts to provide adequate service to the international passengers.

DENVER STAPLETON INTERNATIONAL AIRPORT, COLORADO

Serious Delay Problems This Year

Although Denver's flights requiring Customs and Immigration are increasing by only one per day to a total of 3, this addition will be a DC-10-30. We have been informed locally that staffing from both agencies will stay at the current level and may even be increased. However, since Denver Customs will not clear any widebodies now (even charters), it seems clear that the time required to process a moderately full DC-10 will increase markedly, and the level of service will correspondingly decrease.

The FIS facilities in Denver are about to be quadrupled in size due to the Denver-London service, increasing from 4,600 square feet to over 19,000 square feet. Even our other FIS flights will be sorely inconvenienced during construction albeit only for another six months or so. This facility has been designed for "one-stop" processing; whether it works or not as designed, only time will tell.

Overall experience in Denver, as light as it is comparatively speaking, strongly suggests that attitudes displayed by the inspectors toward their work and the public are as important in speedy clearance as are the facilities themselves—assuming adequate facilities to begin with.

Possible One Stop Clearance

Possibly—but not unless the inspectors themselves want to make it work.

Longer Term Help

A constant (and unacceptable) diminution in the level of services for all passengers requiring clearance.

II. THE FOLLOWING AIRPORTS THINK THAT THE U.S. INTERNATIONAL INSPECTIONAL SERVICES AT THEIR AIRPORT(S) ARE: ADEQUATE BUT OFFERED THE FOLLOWING COMMENTS:

BOSTON LOGAN INTERNATIONAL AIRPORT, MASSACHUSETTS (3%)

Customs manpower could be inadequate this summer due to the fact that there may not be any part-time personnel hired to help in Customs.

Customs hall will not hold any more than three jumbo jet arrivals at one time. There could be a lack of luggage carousels.

DALLAS/FORT WORTH INTERNATIONAL AIRPORT, TEXAS (2%)

Adequate only because of the local FIS management approach and techniques - such as optimum use of the citizens' by-pass system. With the pending cuts by the Reagan Administration and the expected increased wide body traffic into existing facilities, problems will arise with both personnel and facility saturation, particularly with inadequate gatespace during peak periods.

Possible One Stop Clearance

POSSIBLE TEST SITE : The Dallas/Fort Worth Airport endorses the GAO "one-stop" inspection system and urges that it also be tested in Dallas/Fort Worth this Summer and Fall. Dallas/Fort Worth Airport offers full cooperation, financial and managerial, in any extension of "one-stop" to Dallas/Fort Worth and would welcome the visit of a Customs/Immigration feasibility team immediately.

ATLANTA HARTSFIELD INTERNATIONAL AIRPORT, GEORGIA

The City of Atlanta and the airlines serving the City made the decision in 1979 to build a first class Federal Inspection Services (FIS) Facility along with its new domestic air terminal then under construction.

The construction of this new international facility required the expenditure of some $14 million and went into service along with the new domestic terminal complex on September 21, 1980.

The new FIS facility was built in response to Atlanta's growing importance as an international gateway. Beginning with Eastern's direct flight between Atlanta and Mexico City in 1971 Atlanta's international air traffic growth has been consistently dramatic.

Atlanta's growing traffic has increased by over 500 per cent in just 4 years.

Because the physical plant was such a dramatic improvement over that which was provided at Hartsfield Atlanta International Airport's old terminal, it was expected that the new facility coupled with the more efficient clearance procedures would result in dramatic improvement in the clearing of international passengers at this facility. Regrettably, this was not the case at first.

Immediately after the opening of the new international terminal complaints by passengers began to increase. The time required for clearance of international passengers at this facility seemed to lengthen rather than decrease. Waiting times in excess of one hour began to be regularly reported and some extreme instances of waits in excess of two hours have been reported.

The personnel of Customs and Immigration here in Atlanta seemingly found it difficult to adjust to the newer clearance process. Customs officers seemed to be uncomfortable in clearing persons from an Immigration standpoint and Immigration personnel are even more uncomfortable in clearing persons that have any sort of questions about their customs declaration. As a result the clearance procedure, although theoretically a much more efficient way to operate, had not produced the greater productivity that was expected from its use.

After these problems were documented, Washington officials of the Federal Inspection Services arranged for a two-month training and orientation program to be conducted for the existing manpower assigned to Atlanta International Airport.

This program has been exceedingly successful and the improvement in average processing time has been dramatic. At current, 70% of all arriving international passengers are normally cleared in 30 minutes or less.

PHILADELPHIA INTERNATIONAL AIRPORT, PENNSYLVANIA

With the installation of the CAPIS system there was a measure of improvement. Additional "One-Step" installations with the proper level of staffing would provide a much improved level of service.

KANSAS CITY INTERNATIONAL AIRPORT, MISSOURI

Although designed to U.S. Customs' requirements, bag claim carousel could be expanded to handle peak arrivals of wide-body aircraft. The vertical bag lift should be redesigned to safely lift baggage. An elevator or other conveyance is needed to aid handicapped.

U.S. Customs and Immigration employees tend to display a surly attitude in dealing with returning U.S. citizens and other travelers. They also sometimes tend to be uncooperative with Operations and Safety personnel which adds difficulty in maintaining airport security.

BANGOR INTERNATIONAL AIRPORT, MAINE

Physical adequacy will be further achieved with the completed renovation project in May, 1981 which includes enlarged facilities for FIS areas, as well as a speedier baggage delivery system. Citizen "By-Pass" for Immigration processing adopted in 1980 reduced significantly delays and congestion during peak traffic periods with respect to Immigration processing. Bangor International is convinced furthermore that with its speedier baggage delivery availability, that the adoption of the "Dual Channel" - "red/green door" system here will greatly enhance the decrease of Customs processing delays and congestions, especially in light of reduced budgetary allowances and manpower freezes imposed upon the FIS systems. This procedure could be currently adopted without additional physical plant changes.

LAS VEGAS McCARRAN INTERNATIONAL AIRPORT, NEVADA

With the completion of a new International Arrivals building at McCarran International, facilities for Federal Inspection Services are adequate. The airport does, however, foresee problems in the future stemming from the existing federal limitations on manpower levels and overtime pay for inspection officials.

PORTLAND INTERNATIONAL AIRPORT, OREGON

Currently Portland International has very few international flights requiring U.S. federal inspections.

EL PASO INTERNATIONAL AIRPORT, TEXAS

Desirable further improvement is programmed and will be implemented when necessary (i.e. two additional stages of expansion). Our proximity to the border allows for a U.S. Customs "labor pool" which serves to our advantage. We enjoy an excellent relationship with local U.S. Customs personnel.

SYRACUSE HANCOCK INTERNATIONAL AIRPORT, NEW YORK

We are quite unusual in that we are a landing rights airport and do have international schedules except at the current time we only have one international scheduled trip per day which requires U.S. inspectional services at our airport. This is being flown by a Canadian commuter with airplanes carrying less than twelve passengers. Consequently, the one inspector assigned to our airport on the day shift is sufficient.

This situation can easily change as several carriers have Canadian authority but are not currently exercising it. The single Customs inspector also handles the Immigration charters. When these occur, it frequently takes extremely long even though additional inspectors are brought to the airport.

In recent months, this type of charter has not been occuring on a very frequent basis. If we should in the near future go back to some of our previous levels of scheduled operations or a greatly increased number of international charters, our U.S. inspectional services would be totally inadequate.

SAN DIEGO INTERNATIONAL AIRPORT, CALIFORNIA

Very limited international operations.

Statement of Frank Mankiewicz, President, National Public Radio

It is my understanding your Subcommittee will hold hearings on Monday, March 22, on the FY 1983 budget for the National Telecommunications and Information Administration and its Public Telecommunications Facilities Program (PTFP).

National Public Radio vigorously supports full funding for the facilities program. We are dismayed that the Administration has recommended, for the second consecutive year, its dismantlement. We very much hope your Subcommittee will again reject the Administration's proposal for PTFP.

As you know, last summer the PTFP Program was reauthorized for three years -- FY 1982, 1983 and 1984 -- in the Public Broadcasting Amendments of 1981. Authorizations were reduced from $40 million per year in FY 1981 to $20 million in FY 1982, $15 million in FY 1983, and $12 million in FY 1984. This was consistent with the recognized need to continue a valuable program while reducing federal expenditures.

The law was also changed to enable stations to use their facilities to generate outside income so long as this did not interfere with the provision of public telecommunications services. This was a critical modification designed to help the stations raise outside revenues.

Your Subcommittee has consistently recognized the value of this program to all of public broadcasting by continuing to support a reasonable level of funding.

The arguments against terminating the PTFP Program are no less relevant this year. In justifying the elimination of the Program, the Administration claims that the job is complete -- that 90% of the American people receive "public broadcasting." This completely misrepresents the fact that 31% of the country cannot receive public radio signals -- a major obstacle to additional growth in listener support. The facilities program is designed precisely to help existing and new stations reach more of their audiences.

The PTFP program is essential to public radio. In FY 1981, public radio stations received over $4.5 million in grants -- 22% of all available funds. But over $20 million in grant applications for radio -- representing over $60 million in matching support from their communities -- were turned down for lack of adequate federal funds.

The Facilities Program is essential for the maintenance of a vigorous public radio system. I very much hope these comments are helpful to you for the hearing on March 5.

Please accept my appreciation for this opportunity to share NPR's views on this issue with you.

STATEMENT OF EDWARD J. PFISTER, PRESIDENT, CORPORATION FOR PUBLIC BROADCASTING

Mr. Chairman, as you know, the Administration has proposed terminating the Public Telecommunications Facilities Program (PTFP) in FY 1983. We urge that you and your colleagues in the Congress reject this recommendation, as you did last year when the Administration proposed a similar action.

The Facilities Program, administered by the National Telecommunications and Information Administration (NTIA) within the Department of Commerce, has proven itself to be an essential element in fulfilling the mandates contained in the Public Broadcasting Act of 1967 and the Public Telecommunications Financing Act of 1978.

In the 1967 Act, the Congress declared as a matter of policy that "it is in the public interest to encourage the growth and development of noncommercial educational radio and television broadcasting . . . that it is necessary and appropriate for the Federal Government to complement, assist and support a national policy that will most effectively make noncommercial educational radio and television services available to all the citizens of the United States."

Both the 1978 and the 1981 Acts placed priority on extending public radio and television services to all Americans. The legislation also emphasized development of noncommercial telecommunications entities owned and operated by women and minorities. The Corporation for Public Broadcasting strongly endorses and supports those goals.

As an additional priority, the legislation calls for at least 25 percent of the PTFP funds to go toward facilities replacement -- to replace worn and obsolete equipment and to ensure that public broadcasters have access to the most up-to-date, state-of-the-art equipment. Without the means to deliver programming, all our other efforts are for naught.

The Corporation and the other national public broadcasting entities have had a long and close relationship with the Facilities Program. The 1967 Public Broadcasting Act and its expansion of the earlier Educational Television Facilities Act of 1962, the Public Broadcasting Financing Act of 1975, as well as the subsequent 1978 Public Telecommunications Financing Act and the 1981 Public Broadcasting Amendments Act, have reflected the Congress' commitment to help establish, maintain and expand a strong, effective and independent public broadcasting system.

It is clear that the finest programs that we can offer -- and I believe that we are offering the American public some very good programs -- cannot meet their intended purpose if we cannot also deliver a first-class, quality signal to all our citizens.

Continuation of the PTFP is crucial and vital to sustaining public radio and television and continuing their potential for service.

Today, thanks to this program and the wisdom of the Congress in establishing it, approximately 90 percent of our fellow citizens have access to public television service, and about 65 percent of the population can receive public radio service.

Had it not been for this program, residents in sparsely populated states like Arizona and South Dakota would still be without a public broadcast service of any kind. Today, many rural areas still lie beyond the reach of public radio and television. The Public Telecommunications Facilities Program remains the only viable mechanism available to fill this void.

It is essential, if the promise to the American people contained in the Public Broadcasting Act is to become reality, that the Program be retained. Without it, we cannot guarantee that all Americans can or will have access to the services of public broadcasting.

STATEMENT OF WES HAYDEN, LEGISLATIVE COUNSEL, INTERNATIONAL ASSOCIATION OF FISH AND WILDLIFE AGENCIES

Mr. Chairman, I appreciate the opportunity of sharing with you and this subcommittee the views of the International Association of Fish and Wildlife Agencies on the National Marine Fisheries Service budget for Fiscal 1983 and our deep concern over its provisions in the form now before you.

That concern stems, first of all, from an acute awareness of the devastating impact which the massive spending cuts being mandated for the Service can have on programs of vital interest and importance to our organization members in the 50 states, Canada and Mexico.

But it goes beyond that point. It also reflects our misgivings about the future outlook for the Service itself, as well as for many of the activities which it now directs.

There is in our mind a real and serious question whether any agency can absorb a 30 percent slash in operating funds in a single year, as is proposed in this instance, and continue to function effectively over a protracted period of time in carrying out its primary mission.

Pursuing that thought one step further, there may be reason to wonder if there is in this situation the portent for possible change and even a limitation of that mission. Marine resources, like those in the agricultural and energy fields, are essential to this Nation's productive capability. The primary objective of NMFS has been the stewardship of those resources.

A budget policy calling for sharply reduced federal spending, deregulation, and emphasis on industrial expansion, energy development and additional land utilization while further cutting support for resource protection initiatives would seem to raise substantial doubts about the long-range prospects for that objective.

Such a possibility would bode ill for the cause of marine resources conservation and management to which the IAFWA and others with related interests are committed and for the continued capacity for smooth intergovernmental relations and correlation of federal-state efforts on which our members have depended in seeking their priority program goals.

Yet I suggest that it is a factor which cannot be dismissed out of hand in examination of the NMFS budget and consideration of how best to deal with its provisions.

To do so would be to ignore the implications of both the magnitude of the proposed reductions in operating funds--almost $45 million--and the nature and number of the programs that would be affected.

From the Association's standpoint, the items with highest priority on that program list are two federal-state initiatives--grants under the Commercial Fisheries and Development Act (PL 88-309) and the Anadromous Fish Act (89-304).

The 88-309 money has been used in prior years for research and development activities relating to commercial fisheries operations and has assumed even greater significance since passage in 1976 of the Fishery Conservation and Management Act--a measure warranting mention in this context since it is being considered for major amendments and reauthorization this year.

Grants under 89-304 have been particularly useful for states in realizing the full potential of salmon and other anadromous fish stocks in the face of frequently difficult and adverse conditions, and it is important to note that they have consistently produced benefits far beyond the costs involved.

There is also a continuing federal responsibility for cost-sharing in that program because it involves a regional marine resource represented by migratory fish species not confined to the waters of a single state.

Because of their importance to our membership, we recommend restoration of $5 million for the Commercial Fisheries objective and $2 million for the Anadromous Fish program for Fiscal 1983.

In addition we strongly favor restoring the $4 million cut from the allocation for the Marine Resources Monitoring Assessment Program (MARMAP) which provides stock assessment and field data collection and resources survey and analysis services. Because of its value as a resource management tool, the program is highly regarded by both state agencies and the Service.

The recommendations just listed reflect the consensus of an Ad-Hoc Budget Committee assigned for a second year the task of setting federal budget priorities for our Association. That group met here in mid-February to review spending proposals for five agencies, including NMFS, whose operations touch on our sphere of primary interest.

While those programs were the only ones specifically proposed for funding restoration, however, they are by no means the only ones with a significant degree of pertinence for our members which are being hit by the NMFS budget ax and which we commend to your attention for consideration in that context as part of your own assessment of funding proposals for the agency.

Among the other items in that category on the reduction list are:

...$3.5 million to begin a three-year phaseout of the Columbia River hatchery program.

...$3.3 million from funding to support the Regional Management Councils.

...$1.2 million to begin a phase-out of the Pribiloff Island support program in Alaska.

...$5.3 million to zero aquaculture research.

...$4.4 million from habitat protection and endangered species programs.

...$3.6 million from fisheries data collection and analysis.

...$3.5 million from environmental impact analysis and habitat research and investigation.

...$4.2 million from fisheries development research and services.

...$2 million from the Saltonstall-Kennedy program to terminate that activity.

The effect of those cuts on states and fishing interests in terms of added responsibilities or diminished services if allowed to stand as proposed is obvious. The only remaining question is whether, or how, the reductions can be adjusted to mitigate at least some of the impact.

We look forward to the opportunity of working with your subcommittee in any appropriate way, either through our Washington office or through input from our state agency members, in your effort to achieve a practical and workable solution to the problem which will address both economic considerations and resource needs and interests.

STATEMENT OF THE ATLANTIC STATES MARINE FISHERIES COMMISSION

Mr. Chairman, the three interstate marine fisheries Commissions, representing 25 coastal States, respectfully urge that your Subcommittee approve continued Federal funding at the level of $5.0 million for cooperative State/Federal fisheries research and management programs under the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309), as a component of the National Marine Fisheries Service FY 83 budget, and thereby reaffirm the Congressional mandate for Federal participation in the conservation and management of shared fishery resources. We are acutely aware of the economic crisis this nation faces, and concur on the need to move aggressively toward a balance budget. However, we cannot agree with the apparent position taken by the Administration that this budget-balancing process required scuttling a cooperative State/Federal program which was mandated by the Congress to improve our ability to conserve, develop, and use wisely our commercial fishery resources. Dollars provided to this program by both State and Federal governments should be viewed as investments in future social and economic benefits, and therefore as budget items to be protected as provident uses of public funds.

Continued Federal funding of the P.L. 88-309 program makes good sense from both resource management and cost-effectiveness points of view, for the following principle reasons:

- *State-Federal cooperative projects under this Act carry forward relevant research, monitor the changing status of fisheries, and produce a flow of data essential for continued conservation and management of these valuable natural resources. Particularly for fisheries subject to management under adjacent State and Federal jurisdictions, including most fisheries subject to Regional Council management under terms of MFCMA, State and Federal sharing of program responsibility is essential.*
- *Fisheries resources are biologically renewable, thus funds invested return significant and generally cost-effective social and economic benefits to the nation. Under this Act, Federal dollars generate State and other matching support for fisheries research and development projects of both regional and national significance.*
- *Improved productivity of existing fisheries and development of U.S. capability to harvest, process, and market presently underutilized fishery resources, will return major economic benefits to the U.S. fishing industry. As the U.S. fishing industry fully implements its preferential right to resources within the Fisheries Conservation Zone, the U.S. can achieve a significant reduction in the negative foreign exchange balance by reducing dependence on imported fish products.*

The Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) instituted U.S. management authority over fishery resources out to 200 miles from the U.S. coastline, and established priority access for the American fishing industry to those resources. This landmark legislation has opened the way for massive expansion of domestic fisheries, and for consequent major potential benefits to the U.S. economy in the form of dollars, jobs, and domestic production of needed protein food.

However, full realization of these benefits requires careful husbandry of the natural resources which produce fishery products, and wise management of their exploitation. Therefore MFCMA also established a new regional fishery management authority with regional management planning vested in newly-created Regional Councils. Implementation of those regional plans rests with Federal agencies for the Fishery Conservation Zone (beyond three miles) and with the States inside the three-mile limit of the Territorial Sea.

In continuing conformance with the original intent of Congress as expressed in the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309), projects receiving joint Federal-State support under that Act have bolstered State capabilities for development and scientific management of commercial fisheries, have developed much of the technical information upon which regional fisheries management is anchored, and presently are contributing to the on-going fisheries monitoring and research essential for implementation of regional management.

In view of both cost-effectiveness and program necessity, we find the apparent Administration position that these programs are expendable to be both incomprehensible and unacceptable. Surely there are more cost-effective ways to move toward a balanced budget than to cut off a program which inspires Federal-State cooperation for research and development of shared fishery resources. Surely too, this is not the time for the Federal government to repudiate its share of responsibility for implementation of Congressionally legislated mandates for fisheries management and development.

Because these programs are absolutely essential to continuance of State-Federal implementation of regional management--because Federal contributions generate State matching funds plus on-going State commitments to regional management operations--and because the growth of domestic fisheries can contribute significantly to the national economy--we urgently request your leadership to assure continued funding for these cooperative programs under the Commercial Fisheries Research and Development Act of 1964. The Federal government has increasing responsibility for support of coordinated regional conservation and management of marine fisheries resources as an outgrowth of MFCMA. Moreover, Federal dollars invested now in fisheries research and development can pay major future dividends in economic and social benefits to the nation.

The following pages plus attachments provide more detailed discussion of our three primary arguments for continued Federal participation in these programs. Please call upon any of us or upon our member States if you desire further information or documentation.

Cooperative research, monitoring, and data collection

The Commercial Fisheries Research and Development Act was enacted by Congress in 1964 as P.L. 88-309 specifically to "provide coordinated aid to the several States in the development of their commercial fisheries by stimulating research and development at the local level...". Congressional sponsors particularly recognized the need for "...an immediate-action program designed to stimulate production and utilization of local fisheries[1].

Over the years since 1964, Federal appropriations for general research and development projects (Sec. 4a) have remained at relatively modest levels ($4.1 million annually 1967-69; $3.8 million per year 1970-78; $5 million annually 1979-81) apportioned among all the States and participating Territories. Matching State support (25% State to 75% Federal) has been required. Beyond question the program has contributed effectively to the goal originally set by the Congress, and has firmly established a commercial fishery research and development framework at State and local levels.

Subsequent Congressional and Administration reviews of program accomplishments have demonstrated these values. A 1977 House Merchant Marine and Fisheries Committee Report (No. 95-254) includes the following program accomplishments as cited by NMFS Deputy Director Jack Gehringer:

- initiation (1966-1977) of 712 projects at an estimated State/Federal cost of nearly $70 million;
- extensive contributions to State capabilities to obtain scientific information on stocks of shellfish and finfish, advances in aquaculture, improvements in uses of fish byproducts, development of new products, etc.

It should be noted that the above-quoted review occurred in the first full year of implementation of the (Magnuson) Fishery Conservation and Management Act, which was to depend heavily upon the data base developed under P.L. 88-309 for the fundamental information required for management plan development. Gehringer's review of P.L. 88-309 accomplishments so indicated:

- research support for development of cooperative State/Federal management plans (for American lobster, Gulf of Marine shrimp, South Atlantic shrimp, surf clams, Dungeness crab, Pacific salmon, and others).
- stock assessment and statistical programs for offshore and Continental Shelf species of potential importance for development of Regional Council Fishery Management Plans.

The House Merchant Marine and Fisheries Committee summarized its general endorsement of the Commercial Fisheries Research and Development Act as follows:

> "The Committee concludes that the Commercial Fisheries Research and Development Act is one of the most popular Federal-aid acts ever created into law by the Congress. The programs carried out under

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[1] House Committee Report 338, 88th Congress, June 27, 1963.

the act on a Federal-State cooperative basis have been extremely effective in promoting the development of the commercial fisheries of the United States."

The Committee urged that in the future the program be better funded by the Congress, and receive stronger program development support from the Secretary of Commerce, (emphasis added). To that end, the Congress passed and the President signed into law P.L. 95-53, doubling the authorized level of federal funding for the Act (to $10 million annually for Sec. 4a).

As noted earlier, the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA) placed massive added demands upon fisheries research, monitoring, and data development capabilities, and thereby increased by orders of magnitude the importance of Commercial Fisheries Research and Development Act programs as major contributors to national goals and objectives. These new dimensions to fisheries research and management can best be appreciated by considering the new management requirements established by MFCMA.

P.L. 94-265, the (Magnuson) Fishery Conservation and Management Act of 1976, established U.S. conservation and management jurisdiction over marine fishery resources out to 200 miles. To administer this jurisdiction, the FCMA established Regional Fishery Management Councils, and charged them with preparation and implementation of "fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery." The MFCMA further specified several national policies for management of U.S. marine and anadromous fisheries resources including: prevention of overfishing, use of best scientific information available, nondiscrimination among citizens, and general efficiency of operation. Also introduced into the fishery management process are the requirements that, to the extent practicable, we promote economic efficiency, we manage stocks of fish as units throughout their range, and that we manage for optimum yield. Optimum yield is defined as the amount of fish which will provide the greatest overall benefit to the nation, with particular reference to food production and recreational opportunities, taking into account relevant economic, social, and ecological factors.

Thus the FCMA has massively increased the geographic scope of fisheries management responsibility; it also has introduced new dimensions to the data base which must be developed to carry out that responsibility. To meet what is indeed a quantum jump in research needs, existing programs have had to be strengthened and new programs created. These must encompass new fisheries now available for U.S. preferential use, and they must incorporate multidisciplinary approaches to management of all fisheries in accordance with the new management policies (National Standards).

While some of these tasks can be met by in-house programs of Federal agencies or the Regional Councils, many depend upon cooperative interactions between Federal and State fishery management agencies. State-Federal cooperation in necessary to attain comprehensive management throughout the range of the resource. State agencies for many decades have been regulating fisheries off their shores, collecting statistics and performing management-related research, along with other task necessary for management. It is vital that these experienced management personnel and associated resources be teamed with the special capabilities to be found in Federal agencies to meet the new needs and opportunities generated by the FCMA.

The Commercial Fisheries Research and Development Act (P.L. 88-309) has proved to be an ideal vehicle for channelling State resources into fisheries monitoring, research, and data collection essential to implementation of Council management plans. NOAA's Assistant Administrator for Fisheries, Terry Leitzell, stressed NMFS support for this development in his Congressional testimony last year[2]. He noted the States' earlier use of P.L. 88-309 funding to assist development of cooperative State/Federal fishery management plans which served as basis for Regional Council plan development. He emphasized the continuing role of these State programs, and NMFS intentions to expand that role, as follows:

> "Stock assessment and statistical programs conducted on off-shore and continental shelf fish stocks also have contributed to establishing a data base for the development of fishery management plans by the Regional Councils. ...The National Marine Fisheries Service has been actively exploring with the States ways in which the States can use P.L. 88-309 funds to more effectively support the cooperative State/Federal management programs and to orient their research towards studies which will complement management and research related to species managed under the FCMA."

The Regional Fishery Management Councils depend heavily upon the States for long-term implementation of fishery management plans--particularly for continued assessments of fishing impacts on stocks, and for assistance with biological and socioeconomic research essential for periodic improvement of those management plans. The States' abilities to carry out these supportive functions depend heavily upon cooperative Federal-State funding under P.L. 88-309. Since MFCMA and Regional Council management plans are Federally mandated actions, the States quite properly expect Federal participation in the fishery monitoring, research, and data collection necessary to support those actions. Because fish and fishermen range freely through State and Federal waters (inside and outside the 3-mile limits of the Territorial Sea), Federal-State cooperative funding is both appropriate and necessary.

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[2] Statement by Terry Leitzell before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee, February 11, 1980.

We consider this by far the most compelling reason for continued funding of the Commercial Fisheries Research and Development Act (P.L. 88-309). If that cooperative funding is lost, State-Federal programs and projects absolutely essential to the operational success of Regional Council management plans will be jeopardized, and either will be lost, or the entire burden for their support may have to be assumed by the Federal government. It is totally unrealistic to expect the States, in the absence of Federal cooperative support, to pick up the total burden for programs which have been engendered by Federal legislation.

Pacific area examples well illustrate the regional management support role of programs and projects carried forward under the Commercial Fisheries Research and Development Act (cf. Attachment A for a selected listing of relevant projects by Region and State). For FY 1982, all Pacific area States give highest priority to allocation of available State and Federal funding under P.L. 88-309 to projects supportive of Regional Council management of groundfish, shellfish, and salmon in accordance with provisions of the Magnuson Fisheries Conservation and Management Act of 1976.

Groundfish harvested off California, Oregon, and Washington will return some $70 million in 1982 to Pacific Coast fishermen, according to estimates in the Pacific Fishery Management Council's Pacific Coast Groundfish Plan. That Plan, approved by the Council in February 1981 and sent in March to the Secretary of Commerce for Federal adoption, specifies objectives, mechanisms for in-season and between-season management, and requisite data collection and research requirements which depend extensively upon ongoing P.L. 88-309 programs in all participating States (cf. Attachment B).

Of the nine management objectives in the groundfish Plan adopted by the Council, three have operational significance for joint Federal-State programs of fishery monitoring, data collection and analysis, and research:

- Attain an information flow on the status of the fishery and the fishery resource which allows for informed management decisions as the fishery occurs.
- Recognizing the multispecies nature of the fishery, establish a concept of managing by species and by gear, or by groups of interrelated species.
- Prevent overfishing of stocks which can be managed as a unit, including rebuilding those stocks which are now depleted.

The Plan specifies optimum yields for groundfish species and species complexes, and outlines mechanisms for promptly adjusting allowable catch levels downward if conservation is required, or upward if new information indicates increased harvests are appropriate. These mechanisms require that the Council's Plan Implementation Team monitor catch data and biological information on each species/species complex throughout the year in order to detect any signs of stress which suggest need for changes in the management regime. Factors to be assessed include reductions in biomass below expected levels, indications that harvest rates are exceeding replacement of young fish, or that the catch for the calendar year will exceed current estimates of allowable harvest. Negative signals from these continuing assessments trigger a "point of concern" mechanism whereby the Council is notified of the need to consider remedial action. Where assessments show unexpected strength, mechanisms can be activated to increase allowable harvest levels.

The mechanisms outlined for timely in-season adjustment of harvest guidelines to accommodate real-world changes in the fishery directly support the third objective cited earlier (prevent overfishing...) and can only be carried out if the other two objectives are achieved--for management by species and gear type, and on the basis of a timely flow of information on the status of the fishery and the fishery resource.

Accordingly, the Plan specifies requirements for data collection and reporting and for research (cf. Attachment B for specific implementation requirements). For fisheries data, the Plan requires building upon existing fisheries data collection and reporting systems of the States of California, Oregon, and Washington to make them sufficiently timely and detailed to permit the in-season stock and harvest level assessments required by the "point of concern" mechanism.

The Plan states:

> "No additional federal data reporting requirements will be imposed on domestic groundfish fishermen or processors as long as the data-collection and reporting systems operated by State agencies continue to provide the Council and the Secretary of Commerce with statistical information adequate for the in-season and between-season management provisions of this plan. It is therefore anticipated that data which Section 303 (a) (5) of the FCMA requires to be submitted to the Secretary will be gathered by the States, including, but not limiting to:
>
> 1) type and quantity of gear used;
> 2) catch by species in weight of fish;
> 3) areas and times of fishing;
> 4) number of hauls."

> "Steps have already been taken by the three States, NMFS, and the Pacific Council to improve timeliness and quality of the groundfish data and to develop and implement a coastwide data network for compiling, storing, and sharing the data. Using this system, summaries of preliminary and final fishery data will be submitted on a scheduled basis to a central data compiler. Data from the three States will be combined and presented to the Council, the Regional Director (NMFS), and state agencies. The Council will provide copies to the Groundfish Management Team for review and management recommendations. Preliminary data reported for the domestic commercial fishery will include catch by species, by vessel class, by gear type, and by major statistical area. Data will be reported monthly, no later than one week after the end of the month of record. Annual summary

reports of final fishery statistics will be available to the Council by July of the following year."

In addition to the major increases in data timeliness and scope called for above, the Plan charges the States with implementation of "mandatory, consistent logbook programs for the trawl (including joint venture), longline, and pot fisheries for groundfish. The Plan also emphasizes general research needs to be carried out by the States, the National Marine Fisheries Service, and university groups, including "stock identification, estimations of biological statistics of abundance, mortalities, growth, reproduction, and determination of rates of surplus production...".

The Pacific Coast Groundfish Plan proposes truly modern management procedures for using best available scientific information on a real-time basis to regulate a highly complex and valuable fishery for optimum benefits to commercial harvesters and processors, recreational fishermen, and the public consumer of fish products. Clearly however, the system will work properly only if the necessary data are collected, reported, and analyzed on a timely basis, along with biological and other information derived from ongoing management-related research.

To make this system work, resources of the entire Pacific Coast must move forward together. The National Marine Fisheries Service has direct responsibility for collection and reporting of foreign catch statistics, for stock assessments and other studies of certain species, and for most researches in offshore waters. The major burden for domestic fisheries data input and for other related research rests upon the States of California, Oregon, and Washington. Federal, State, and Regional agencies must coordinate activities of a regional Fishery Information Network (FIN) capable of receiving and combining relevant fisheries data from all sources and producing information summaries geared to management decision-making.

For California, Oregon, and Washington, continuance of effective participation in this multi-agency cooperative program will depend ultimately upon the continuity of shared State-Federal support under the Commercial Fisheries Research and Development Act (P.L. 88-309). The existing Groundfish Management Plan owes most of its content to information collected by State fisheries agencies over the past decade under P.L. 88-309 grants. For all three States, the principle projects proposed for FY 1982 funding are in direct support of Council Plan objectives and information needs. The three States request Federal participation in those key projects at a combined level of approximately $500,000 for FY 1982. State contributions will bring the total cost of these supportive programs to approximately $670,000[3], which is less than half of one percent of the estimated annual value of this fishery.

If Federal support is withdrawn from these programs which so directly support management objectives established under MFCMA, the projects and the trained staff associated with them probably will be lost, and the entire groundfish management mechanism of the Pacific Council will be placed in serious jeopardy. The States cannot be expected to assume the full financial responsibility for projects which are so directly a product of Federal legislative mandates and so clearly in the service of regional and national goals.

Clearly the ultimate losers from such an abrogation of Federal responsibility will be the fishery resource itself which urgently needs coordinated regional management for stock protection and rebuilding purposes, and the recreational and commercial users of the resource, who will benefit significantly from the in-season management flexibility that has been built into the groundfish plan. The long-range major losses will be to the United States economy as a whole, since it is only through improved management and control of the resource that we can hope to shift benefits now going to foreign fishermen to U.S. harvesters and processors. The economic stakes are high. Current annual ex-vessel value of the domestic Pacific Coast groundfish harvest is estimated at $70 million. Value added through processing increases that figure by approximately 2 1/2 times to some $175 million. Foreign fleets currently harvest heavy tonnages of species not presently utilized by domestic fisheries. Therefore a considerably higher total economic benefit requires only wise management of the resource and aggressive fisheries development to transfer this rich harvest to American fishermen and American processors.

The Pacific area States place parallel emphasis on fishery monitoring, data collection, and relevant research for regional management of shellfish, either in support of Regional Council management plans, or to improve the quality of multi-State management of fisheries not now under Council management authority. As is true for groundfish, loss of federal funding for these programs, which so directly support the intent and mandate of MFCMA, will force project curtailments and loss of key personnel, and thereby will vitiate the regional planning and implementation thrust of MFCMA.

Attachment A identifies key shellfish projects of the Pacific States. Essential support for regional management of shrimp is offered via four projects in the States of Alaska, Washington, and Oregon. Projects in California and Washington impinge significantly on Dungeness crab productivity and management. Alaska will devote a major share of combined State-Federal resources to studies vital to management of its enormously valuable king and tanner crab resources. The combined Federal cost of all these Pacific area shellfish projects is approximately $440,000. With State contributions added, total costs approximate $675,000, which is only a fraction of a percent of the annual value of landings from these major fisheries.

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[3] cf. Attachment A, P. 1-2: California's fisheries monitoring, assessment, and evaluation; Oregon's real time data reporting and groundfish stock and fishery assessment; Washington's Pacific cod, lingcod, rockfish stock assessment, ground fish monitoring and data management; Pacific States groundfish aging unit.

Atlantic and Gulf States also will allocate significant resources under P.L. 88-309 for projects supportive of multi-State and Federal regional concerns (cf. Attachment A, p.3-6). On the Atlantic Coast, Commercial Fisheries Research and Development Act grants provide support to interstate management programs, Regional Fishery Management Council programs, and the National Marine Fisheries Service statistics and stock assessment programs. While P.L. 88-309 grant programs primarily serve local and State interests, they benefit all institutions involved in regional management of commercially important coastal species. A recent survey of uses of FY 1981 grants by the South Atlantic States shows that one hundred percent of the projects funded under P.L. 88-309 benefit regional and Federal management interests as well as the States conducting the projects.

In North and South Carolina, for example, the National Marine Fisheries Service depends entirely on projects conducted with P.L. 88-309 grants for landing statistics and other information on all species in the commercial fisheries of that area. In New England, Massachusetts, and Rhode Island, P.L. 88-309 programs support fishery resource assessment projects in the Territorial Sea and internal State waters that are coordinated with National Marine Fisheries Service surveys so that the Federal and the State data can be used together for composite assessments of New England species throughout their range. This type of information is invaluable to the Regional Fishery Management Councils, and essential to the successful management of all coastal migratory species.

The New England Fishery Management Council is presently in the process of rewriting a most important management plan for Atlantic groundfish. This plan includes codfish, haddock, and the yellowtail flounder, three species which have long been the backbone of New England commercial fisheries. The Council's new strategy for managing groundfish is based principally on mesh-size selectivity data gathered by a project in the State of Maine under the P.L. 88-309 grant program. Without the continued support of this grant program, the Councils will be unable to determine the effect of various mesh size restrictions on groundfish stocks. This type of contribution from projects funded under the Commercial Fisheries Research and Development Act can be seen in almost every fishery subject to Regional Councils management plans. On the Atlantic Coast these include Atlantic herring, Northern shrimp, South Atlantic shrimp, American lobster, Atlantic mackerel, several species of flounders, the grouper/snapper complex, and sea scallops. The P.L. 88-309 grant program also supports regional interstate management efforts such as the Northern shrimp fishery as managed by the States of Maine, New Hampshire, and Massachusetts through the Atlantic States Marine Fisheries Compact. Stock assessments and environmental physiology data on Northern shrimp are provided by projects funded through P.L. 88-309.

The Commercial Fisheries Research and Development Act has supported research and has proven to be essential to the success of National Marine Fisheries Service programs, Fishery Management Council plans, and interstate management efforts. The continued success of these programs or any new programs to manage migratory fish in the territorial seas will depend on the continuing availability of data basic to management decisions. If the Commercial Fisheries Research and Development Act grants are entirely eliminated, most of these vital research and data collection programs, of necessity, must be terminated by the States.

At a recent workshop on Territorial Seas fishery management, William Gordon, Director of the Office of Resource Conservation and Management, National Marine Fisheries Service identified these components to the present Federal role in fisheries management:

1. direct management of fisheries in the fishery management conservation zone.
2. supporting management of interstate fisheries by the coastal States; and
3. participating role in management of international fisheries.

We agree with this interpretation of the Federal role. However, this interpretation is not reflected in the current NOAA budget. Of the multimillion dollar decreases proposed by the Administration for NOAA's ocean and living marine resources operation, $4 million would be eliminated by terminating the P.L. 88-309 program, $3 million by terminating anadromous fish grants under P.L. 89-304, and $2 million by eliminating aquaculture programs that deal with commercially important shellfish and crustaceans. All these millions of the proposed budget reductions come at the expense of programs which support the management of interstate fisheries--the second of Gordon's three program areas. The importance of interstate fisheries seems to have been neglected even though as much as two-thirds of the fish landed in the United States by recreational and commerical fisheries come from the territorial seas.

In recent testimony before the House Appropriations Subcommittee on State, Justice, Commerce and the Judiciary, James (Bud) Walsh, NOAA Acting Administrator, asserted that the P.L. 88-309 grant program benefited primarily local and State interests, and therefore should be supported by State government without the need for Federal participation. We believe State governments do now significantly support P.L. 88-309 through their matching grants. It is obvious that NOAA's budget proposals did not adequately assess the full spectrum of values of the Commercial Fisheries Research and Development Act program as it benefits the Nation through contributions to regional conservation and management of shared resources.

Gulf States and Caribbean attention, as on the other coasts, is directed heavily toward monitoring fisheries and producing the flow of data necessary for regional management under MFCMA (e.g., data management projects in Texas, Louisiana, and Mississippi; also in Puerto Rico). Program emphasis in Alabama, Florida, Mississippi, and in Puerto Rico and the Virgin Islands has been general research on finfish and shellfish necessary for Council planning purposes. Shrimp stock assessments essential to management of this most important resource also have high priority (Texas, Mississippi).

Had the accumulation of these data been used only by and for the States in the management of the fisheries in their Territorial Sea and inland waters, the funds would still have been well spent from a Federal point of view, since food produced in Texas, Florida, or Puerto Rico, does not remain in that locale, but is distributed to the remainder of the nation. This was, however, not the sole use of the data. The preparation of fishery management plans by the Gulf and Caribbean Councils required extensive data and the application of these data to preparation of management plans. The Gulf States and Puerto Rico were able to supply the data and to assist in applying these data to localized fishing conditions. Some of these same people, or persons they have trained, sit on the Councils today and continue to supply this knowledge and expertise to the application and implementation of these plans. This would not today be possible had there been no P.L. 88-309 and P.L. 89-304 funding.

In the total world of fish management, there must be a State-Federal partnership if a homogenous management system is to exist and the resources of concern are to be managed efficiently. Most of the fish and shrimp of the Gulf of Mexico are nurtured for a considerable period of their lives in marshy bays, lagoons, and the Territorial Sea of the several States. Therefore, the data collection should be so conducted by the States that it complements the needs of the Councils in their mandate to manage the F.C.Z. P.L. 88-309 programs have been of value in providing benefits to Federal Council needs which will not be forthcoming if the funding is abolished.

The following table summarizes the percentage of P.L. 88-309 funds obligated in FY 1981 by the Gulf and Caribbean Councils in four project categories. About 88% of these projects provide data for State-Federal management and conservation of living marine resources. If P.L. 88-309 funds are not allocated in FY 1982, these projects will be terminated and result in the loss of information from commercial and recreational fishery landings, catch-effort data, cooperative monitoring of shrimp and fisheries populations, measurement of spiny lobster populations dynamics, and determining mackerel migration patterns. Most of these projects currently provide the data base that is being used by both the States and the Fishery Management Councils.

Percentage of Gulf and Caribbean area FY 1981 P.L. 88-309 funds expended on projects by the five coastal States Puerto Rico and the Virgin Islands, that are applicable to State-only and State-Federal responsibilities for marine fisheries management.

	State-Federal Management				State-only Management
Areas	Fishery Landings	Monitoring Fishery Resources	Testing Management Techniques	Total S-F	Total State-only Management
Caribbean	42.5%	42.4%	12.6%	97.5%	2.5%
Gulf States	14.7%	64.4%	3.8%	82.9%	17.1%

Cost-effectiveness of Federal fisheries investments under P.L. 88-309

If properly conserved and managed for optimum yields, America's fisheries comprise a significant and annually self-renewing generator of national wealth. For that reason, Federal funds allocated now for research and development to enhance the productivity of those fisheries should be considered investments that will pay long-term economic and social dividends to both citizens and the national economy.

Most important commercial fish species and the fishermen who harvest them range freely through the waters of both State and Federal jurisdiction. Effective management of shared fisheries is possible only when cooperation among concerned jurisdictions permits management of stocks as units throughout their range. Both State and Federal management agencies must develop the attitudes and acquire the trained manpower and other resources to carry out the monitoring, data flow, and relevant research necessary for effective regional fisheries management.

For this purpose of fostering State capabilities for commercial fisheries conservation and management, past Federal investments under the Commercial Fisheries Research and Development Act may have paid the greatest dividends. Without that effective Federal-State interaction over the past 16 years, many States could not have developed the readiness to participate productively now in shared management responsibilities under the new Federal mandates of MFCMA.

NMFS Director Terry Leitzell summarized this impact in February 1980 testimony:

> "The original intent of the Act was to build institutional capabilities in the States by combining the financial resources and expertise of the Federal Government with the States in a cooperative effort for the development and effective management of the Nation's commercial fisheries resources. All 50 states and the other 5 recipients of the funds have participated in carrying out the project activities. Approximately 300 people in the States, including scientists and staff support, are continuously supported by P.L. 88-309 funds in their efforts to gather information to help solve fisheries problems and to provide a data base for better fisheries management.
>
> "Since fiscal year 1966 when funds were first made available, substantial results have been achieved. A total of 837 projects has been initiated at an estimated total cost, both State and Federal, of nearly $83 million...The projects cover many activities, including aquaculture, construction, coordination and planning, development, research, and disaster aid. Research continues to be the backbone of the program with 53 percent of the FY 1979 Federal dollars being spent for this purpose, 17 percent for the collection of fishery statistics, 4 percent for aquaculture, 8 percent for technical assistance and marketing, 6 percent for coordination and planning, and 12 percent for construction, operation and maintenance of laboratory facilities.
>
> "The Act has served well to assist the States to better and more effectively develop and manage their valuable fisheries resources. Under subsection 4(a), scientific information has been obtained on local stocks of shellfish and finfish. Advances have been made in aquaculture for the rearing of catfish, trout, shrimp, oysters, clams, and other shellfish. This research has been coordinated with that ongoing in Federal and University laboratories. Improvements have been made in the use of fish byproducts and in development of new products; new fishing gear and methods have been developed and introduced to the industry...Projects funded with these State/Federal funds have produced results which have received the approval and strong support of the Nation's scientific community as well as the fishing industry."

This enhancement of State research and management capability has been truly a Federal-State cooperative effort in dollars as well as in other resource commitments. Under terms of P.L. 88-309, the Federal share of project costs can be up to 75%; therefore the (approximately) $74 million Federal dollars invested under the Act from 1966 to 1981 have generated some $24 million matching State funds, and at the same time have catalyzed allocation of major State support services and capabilities to meet the purposes of the Act.

Clearly P.L. 88-309 projects constitute only a part of our total national commitment to protection and productive use of commercial fishery resources; State and Federal agencies and the private sector direct other resources and programs toward those same objectives. Given the Constitutionally established separation of State and Federal jurisdictions at the 3-mile limit of the Territorial Sea, however, this Act provides the key mechanism for effective cooperative interaction for management of fishery resources which by nature are distributed across those historic political boundaries.

The annually renewable economic worth of our major commercial fisheries fully justifies the levels of Federal and State expenditures authorized under P.L. 88-309. For example, a combined Federal-State investment of some $670,000 is proposed for FY 1982 under P.L. 88-309, to support monitoring, data collection and analyses, and relevant researches on Pacific groundfish. The annual yield from that fishery is estimated at approximately $175 million--more than 200 times the level of the research and management funds requested. Similarly, the $83,000 project proposed for State of Alaska king and tanner crab population assessments has a trivial cost compared to a recent (1980) valuation of king crab landings at $167 million and tanner crab landings at $51 million.

In 1976, then-Commerce Secretary Elliot Richardson stressed the national economic and strategic worth of commercial fisheries in his introduction to "A Marine Fisheries Program for the Nation:

> "...Our fisheries are one of the Nation's--indeed the world's--greatest resources, and will become increasingly important as a source of food for man in the decades ahead. We cannot permit the depletion of our fish stocks and the destruction of fish habitats to continue. We must learn to manage this resource so that we may use it to the optimum now and so that future generations may be able to use it and draw even greater yields from it.
>
> "...At the present time, the landed value of the fish caught each year by the American commercial fishing industry is approximately $1 billion. The total impact on the national economy is much greater--in dollars, approximately $6.5 billion, more than six times the value of the landed catch. In numbers of jobs, commercial fishing now provides employment for almost half a million persons, either directly or indirectly...".

Development of U.S. fisheries to benefit the U.S. economy

As Commerce Secretary Richardson has indicated, it clearly is in the interest of the U.S. economy that domestic fisheries increase their ability to harvest and process the fisheries resources off U.S. shores. Clearly too, the Commercial Fisheries Research and Development Act was designed to support fisheries development processes both indirectly, through improvements in resource assessments, fishery monitoring, etc., and directly through economic development and marketing projects such as those cited in Attachment B for the States of Maine and Florida (p. B-3). Because economic rejuvenation is an essential national goal for the 1980's, our commercial fisheries potential for contributing significantly to the U.S. economy merits special attention.

In the decade prior to 1976 and enactment of MFCMA, America's commercial fishery harvests slipped to 5th or 6th among fishing nations of the world, principally because of the phenomenal growth of foreign harvests off our shores. To illustrate this takeover by foreign fleets, the ten-year recorded groundfish catch off the Pacific coast (1963-1973) indicates that the U.S. catch remained essentially constant and at low levels while giant foreign trawlers quadrupled their harvest (cf. upper figure, Attachment C). Moreover, this massive foreign fishery had a devastating impact on non-target fishery resources through catastrophic stock depletion of such valuable species as Pacific ocean perch, which while not the targets of the fishery, were taken in large numbers as an incidental bicatch.

On a national scale, over the thirty years 1945-75, the domestic harvest of edible fish declined steadily while the total domestic consumption doubled (from approximately 3 1/2 billion pounds in 1945 to more than 7 billion in 1975--cf. lower figure, Attachment C). That difference between domestic production and domestic demand has been met through imports of foreign products, with a resultant overseas dollar drain ultimately exceeding $2 billion per year.

The Department of Commerce assessed possibilities for reversing this negative balance of payments and bolstering the U.S. economy through fisheries production in a 1976 publication: A Marine Fisheries Program for the Nation. DOC estimated that stocks of fish off the U.S. coast are capable of yielding 20 to 40 billion pounds annually on a sustained basis. However, the U.S. commercial fisheries landings averaged only 4.7 billion pounds annually for the five years 1969-73, and even with considerably greater foreign fleet harvests, domestic fisheries could be materially expanded.

In light of FAO projections of continuously expanding world demand for fisheries products, the Department of Commerce suggested a tentative national goal of expanding U.S. harvests to keep pace with projected increases in domestic demand. If that production capability could be achieved, by 1985 landings could approximate 7 billion pounds. Such a production level could generate an estimated 50% increase in total value added to the national economy by U.S. commercial fisheries, and could achieve significant reduction in the negative foreign exchange balance by reducing domestic dependence on imported fish products. Toward realizing that economic opportunity, the Department recommended that one of its four national program goals be to "strengthen the U.S. commercial (fishing) industry to enable it to provide increased supplies (of fishery products) at competitive prices." Measures proposed to serve that goal included, in the context of P.L. 88-309, expanded development of fishery technology, including harvesting, handling, and processing, to increase quality and productivity and decrease cost and waste; also recognition for an increased role for the States in the research and management of coastal fisheries.

The President expanded these goals in 1979 through a policy and program statement[4] addressing the need to more fully realize the potential of the U.S. fishing industry to contribute significantly to the U.S. economy. That statement recognized present fishing industry contributions to the national economy--at least $7 billion in gross national product, along with direct employment of more than 260,000 individuals. Administration spokesmen emphasized the opportunity to expand that contribution, noting that under MFCMA the U.S. controls about 20% of the world's fishery resources, yet harvests only about 4% of the world's catch. Tripling that level of harvest appeared to be a reasonable goal, particularly in view of FAO estimates of a one-third increase in world demand for fish products over the next decade. Since U.S. consumers expended some $11 billion for edible seafoods in 1978, nearly half for imported products, the overall U.S. economy would benefit significantly from U.S. fishing industry capability to supply this growing domestic demand.

Concurrent with these national statements of goals and policy, the Magnuson Fishery Conservation and Management Act conferred upon U.S. fishermen priority access rights to fishery resources of the 200-mile-wide Fishery Conservation Zone off U.S. shores. U.S. fishermen took prompt advantage of this new access. The success of their displacement of foreign fleets and channelling of increased economic benefits into the U.S. economy can be demonstrated by some West Coast examples.

The hake (whiting) fishery off the Pacific coast has been principle target for major foreign fishing fleets, for several decades with foreign harvests ranging from 120,000 to 200,000 metric tons per year. Due to domestic processing and marketing problems, no significant domestic fishery existed until after the advent of MFCMA. Over the years since 1977, however, joint ventures between U.S. fishermen and foreign floating processors have stimulated development of impressive midwater trawling capabilities by U.S. vessels, resulting in a ten-fold increase in the domestic harvest of hake--from 6,800 metric tons in 1977 to an expected 60,000 metric tons for 1981. As U.S. harvesting capability has increased, allocations to foreign fishing fleets have been reduced accordingly. The trend is accelerating for transfer of major fishery resource utilization benefits from foreign channels into the domestic economy.

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[4] Toward a Partnership for Development of the U.S. Commercial Fishing Industry May 23, 1979

Alaskan fisheries also effectively demonstrate displacement of foreign fleets by domestic fishing operations. The Alaska tanner crab fishery was harvested almost exclusively by Japanese fleets until the 1970's (U.S. fishermen took less than 2% of the harvest in 1968-69). Prior to MFCMA, U.S. harvests increased gradually to 13% of the total in 1975. With the designation of priority harvest access to American fishermen under MFCMA , the U.S. percentage of total harvest shot from 24% in 1976 to a projected 82% in 1981, and will become 100% in 1982 when American ability to harvest and process the total catch will close out all foreign fishing for this species. The 1975 domestic tanner crab harvest had an estimated value in excess of $19 million. The 1980 domestic tanner crab catch is valued at more than $51 million--truly a significant added contribution to the domestic economy.

Similarly, in the decades since World War II, foreign fleets of many nations have taken enormous annual harvests of groundfish from the Bering Sea and Gulf of Alaska. While no significant domestic groundfish fishery existed off Alaska prior to MFCMA, under the protection of that Act the U.S. industry has expanded rapidly and efficiently. Domestic harvests in the Bering Sea were only 22 tons in 1976, contrasted to 1,591,300 metric tons reported by foreign fleets. By 1979, domestic harvest rose to 614 tons, and by 1980 to 40,689. Under the drive of joint venture opportunities in 1981, the domestic harvest has been projected to exceed 150,000 metric tons. Gulf of Alaska harvests show a similar growth pattern, from 2,229 metric tons in 1977 to an estimate of 129,000 metric tons for 1981. These clearly are order-of-magnitude increases in domestic harvest capabilities and attendant contributions to the U.S. economy.

Fishery resources available within the 200 mile limit of the U.S. Fishery Conservation Zone (as established by MFCMA) constitute a biologically renewable source of revenue worth billions of dollars annually to the U.S. economy. U.S. priority access to that resource (per provisions of MFCMA) is only the first step toward realizing these potential values. The magnitude of economic benefits will depend upon the value added through harvesting, processing, and marketing. These alternative levels of value are well illustrated by the following estimates developed in 1979 for the Gulf of Alaska pollock fishery.

The Gulf of Alaska pollock resource will support an allowable annual harvest of about 150,000 metric tons. Under terms of MFCMA, if the U.S. fishing industry makes no use of that resource, harvest priveleges must be allocated to foreign fleets. If the entire harvest were allocated to foreign fishermen, the U.S. Treasury would receive approximately half a million dollars in foreign use fees (3 1/2% of the ex-vessel price of $110 per ton, according to 1978 foreign fee schedules).

As a far more attractive option, however, if U.S. vessels can harvest pollock with midwater trawls and sell their catch quickly to processing plants ashore or afloat, the return to U.S. fishermen could total some $16.5 million at the 1978 price of $110 per ton. Since adequate shore-processing facilities with the necessary volume capacity were not yet established in Alaska, an alternative solution was developed--the "joint venture" business arangement between U.S. harvesters and foreign processors. Under this arrangement, U.S. catcher-vessels transfer their fish-laden trawl cod-ends to foreign processor vessels under contract to receive these U.S. caught fish.

This joint-venture benefit to the U.S. economy produces more than 30 times the value that could be generated from foreign harvest fees alone. However, if processing and marketing pollock also could be transferred to the U.S. industry, another $40 million (at 1978 price estimates) could be added, for a total increased U.S. economic yield from the Gulf of Alaska pollock fishery of $50-60 million per year.

This value-added quantum jump would carry with it other pervasive socioeconomic benefits--additional fish-processing jobs, spinoff income for support services, and value returned on investment capital. In terms of the national economy, this increased flow of dollars through the domestic economy constitutes a direct reduction in U.S. foreign exchange deficits, since pollock products presently are a major import for domestic consumer use. Moreover, this transfer to domestic harvesting and processing would retain U.S. control from ocean to consumer of a major source of protein--certainly a strategic resource for the future.

In view of these potential benefits to the U.S. economy, and therefore the cost-effectiveness of Federal investments in American fisheries, we urge that the Congress continue to fund the Federal portion of cooperative Federal-State commercial fisheries research and development projects under P.L. 88-309. These projects contribute to the information base essential for conservation and productive management of U.S. fishery resources. We pledge the best efforts of our member States to continue to improve that information base toward the object of continued augmentation of economic benefits to the U.S. fishing industry and the U.S. economy.

We consider it imperative also that the private sector receive augmented support in its efforts to increase U.S. utilization of fishery resources now going by default to foreign fleets. The Saltonstall-Kennedy Fund was established in 1954 to "promote the free flow of domestically produced fishery products" by means of fishery development projects financed from a portion of the duties collected on imported fish products. We join with the National Fisheries Institute and the International Association of Fish and Wildlife Agencies in urging that the Congress reaffirm that intent, as updated by the American Fisheries Promotion Act of 1980 (P.L. 96-561), and insist that Saltonstall-Kennedy funds be used as directed, to assist the American fishing industry to develop harvesting, processing, and marketing capacity for fully utilizing presently underutilized fishery resources. A 1980 Pacific Marine Fisheries Commission Resolution, carrying unanimous approval of the five Pacific States, strongly endorses this position. That Resolution also recognizes and also endorses the key role of the regional fisheries development foundations in inspiring industry action and serving as an effective interface between government and private sector fisheries management and development interests.

Finally, just last week, the 1,000-member Northeastern Division of the American Fisheries Society, the largest professional Society of fisheries scientists and managers from state, federal and private sectors, unanimously adopted a resolution supporting appropriations for P.L. 88-309 and 89-304 in fiscal year 1983 (Appendix B). This Division of AFS comprises 11 States, the District of Columbia, and five Canadian Provinces. At the same time, the Northeast Association of Fish and Wildlife Agencies passed a similar resolution supporting the same need to continue these two laws with appropriate funding. We are pleased to recognize the support of these distinguished institutions to our recommendations for continued funding of these essential state/federal cooperative fisheries programs.

ATTACHMENT A

REPRESENTATIVE COMMERCIAL FISHERIES MONITORING, DATA COLLECTION, RESEARCH, AND DEVELOPMENT PROJECTS OF REGIONAL IMPORTANCE WHICH ARE DEPENDENT UPON COOPERATIVE FEDERAL-STATE FUNDING FOR FY 1982 UNDER THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT (P.L. 88-309)

PACIFIC AREA STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED * FEDERAL	TOTAL
Alaska	Pandalid shrimp studies--obtain information on postlarval life histories, distribution, and abundance of major exploited shrimp stocks of the Kodiak area and determine effects of fishing on those stocks.	50.0	113.3
	King and tanner crab studies in Cook Inlet--develop a method for assessing annual variation of Cook Inlet king and tanner crab population abundance and relate this abundance to allowable commerical harvest.	50.0	82.6
	Investigation of life history and fishery for tanner crab in Alaska--obtain information on distribution, abundance, migration, growth, mortality, and size and age composition of tanner crab stocks in the Kodiak area as basis for management decisions.	52.1	130.9
	Assessment of stream habitat and upland development--study salmon stocks and physical characteristics in land use activities with emphasis on logging impacts on salmon.	75.7	101.0
American Samoa	Statistical analysis of American Samoa fisheries--collection and analysis of catch data from Samoa-based longline fleet.		100.0
California	Fisheries monitoring, assessment, and evaluation--monitoring commercial fisheries of southern California (groundfish, anchovie, jack mackerel, billfish, etc.) by sampling landings, logbooks, sea surveys, etc. as basis for management decisions.	163.0	220.0
	Shellfish culture investigations--development of mass culture techniques for dungeness crab, red abalone, pismo clam.	103.0	140.0
Idaho	Test-rearing of anadromous fish--evaluate contribution to ocean and river fisheries, survival, and returns of pond-reared chinook salmon on the upper reaches of the Salmon River drainage.	50.0	67.0
Oregon	Real-time groundfish and shrimp fishery data reporting--improve State's capability to obtain catch, effort, and biological data and perform analyses to meet Pacific Council regional management requirements.	55.8	74.4

* funding needs in thousands of dollars

PACIFIC AREA STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED * FEDERAL	TOTAL
	Groundfish stock and fishery assessment for regional management--compile pertinent biological and statistical information and collate into status of stock assessments in satisfaction of Pacific Council regional management needs.	86.5	115.3
Oregon continued)	Shrimp stock and fishery assessment for regional management--analysis of relevant biological statistical information to estimate stock size, equilibrium yield, fishing power, catch-per-unit-of-effort, and fishing mortality to produce improved information base for management decisions.	55.8	74.4
Washington	Pacific cod, lingcod, rockfish stock assessment--collect data on growth, mortality, migration, and recruitment patterns as basis for improved management of the fishery.	34.0	45.2
	Groundfish monitoring--collection of catch and biological data from coastal groundfish fisheries for satisfaction of Pacific Council management requirements.	52.4	69.8
	Groundfish data management--rapid processing, analysis, and reporting of groundfish landings information to satisfy Pacific Council needs.	20.6	27.4
	South coast marine fish/shellfish monitoring--collect landings and biological data on groundfish, shrimp, crabs, and other shellfish for improved resource management.	20.0	26.0
	Coastal dungeness crab--collect biological data necessary for management decisions and for management plan development.	33.0	44.0
	Coastal pink shrimp survey--collect samples for analysis of growth and year class; collect data on fishing effort; conduct research basic to Regional Council management plan development.	25.0	33.0
	Marine coastal fisheries analysis--coordinated researches on all marine fisheries in support of Pacific and North Pacific Fishery Management Council plan development.	19.0	25.3
Pacific States	Groundfish aging unit--aging flatfish, rockfish, other groundfish in support of coastwide stock assessment studies--multi-State project.	50.0	66.0

* funding needs in thousands of dollars

ATLANTIC COAST STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED *	
		FEDERAL	TOTAL
Connecticut	Monitor commercial fisheries of Connecticut--monitor catch, effort, and economic data on Connecticut commercial fishery for use in state and regional management proposals (CT/3278-R).	22.5	30.0
Maine	Cooperative development of underutilized New England fisheries--implement cooperative market and economic development program for underutilized New England seafood products (ME/3-304-D).	40.0	80.0
Maine, et al	Environmental physiology studies of northern shrimp--implement environmental physiology studies of northern shrimp for cooperative management planning by Maine, New Hampshire, and Massachusetts (ME/3-341-R).	3.6	7.1
Maryland	Diseases of marine organisms--determine distribution and intensity of disease affecting several species of marine animals in the Chesapeake Bay (MD/3-10-R).	47.9	63.9
Massachusetts	Coastal fishery resource assessment program--implement a coordinated coastal fishery resource assessment program with NMFS for regional management plan development (MA/3-287-R).[1]	117.0	156.0
New Jersey	MSX oyster disease in Delaware Bay--provide information on fluctuation, prevalence, and intensity of MSX oyster disease in Delaware Bay (NJ/3-319-?).	24.0	32.0
New York	Movement, mortality, and growth of American lobster--monitor movement, mortality, and growth of American lobster for use in regional fishery management plan development (NY/3-341-R).	18.8	37.5
North Carolina	Trawl mesh size selectivity studies--determine mesh size selectivity data from North Carolina winter trawel fishery for use in State/Federal fluke management plan (NC/2/345-R)[2]	35.2	46.9
	Estuarine stock assessment--implement estuarine stock assessment on sciaenids and flounders for development of regional management strategies (NC/2-372-R).	90.0	120.0

*funding in thousands of dollars

[1] Rhode Island has an identical resource assessment program that is also coordinated with NMFS resource assessment efforts in the Fishery Conservative Zone.

[2] Maine has also produced mesh size selectivity data under a similar 88-309 porgram which is currently being used by the New England Fishery Management Council to revise management strategies in the Groundfish Fishery Management Plan.

ATLANTIC COAST STATES	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED	
		FEDERAL	TOTAL
South Carolina	Commercial fisheries data collection--collect catch, effort, and economic data on commercial fishing for NMFS (SC/2-357-R).[3]	39.7	41.6
Virginia	Commercial fisheries inventories--inventory biologic, economic, and sociologic data to develop commercial fishery profiles in the Chesapeake Bay (VA/3-321-D).	68.9	91.9

[3] NMFS has no data collection program for commercial fisheries in the South Carolina region.

GULF COAST STATES REPRESENTATIVE LIST OF CURRENT KEY P.L. 88-309 PROJECTS OF REGIONAL IMPORTANCE

GULF STATES AREA	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED FEDERAL $	FUNDS REQUIRED TOTAL $
ALABAMA	Research and development of Alabama coastal fisheries - Monitor the shrimp, oyster, and finfish resources in coastal Alabama and develop relevant management for the fisheries.	143,400	191,200
FLORIDA	Fisheries extension and marketing services program - Initiated extension program designed to teach professional foods people the techniques of fish cookery; proper handling, storing, and preparing fish; and ways to maintain and expand consumer demand for fishery products.	178,188	237,584
	Florida's marine resources research, development, and management program - Identify needs and implement management strategies to achieve the best use and management of Florida's marine resources.	97,612	130,149
LOUISIANA	Coordination and data processing for Louisiana's Federal aid program - Provide supervision and administration over all commercial fisheries research and development projects and provide electronic processing and analysis for research data collected on these projects.	37,500	50,000
MISSISSIPPI	Fishery monitoring and assessment - Collect representative samples of shellfish (except oysters) and finfish as they occur in territorial waters each month.	88,803	118,404
	Commercial fishes of Mississippi: spawning and miscellaneous biological factors - Determine the season of spawning, size of spawning fish, fecundity, and possible area of spawning for the spotted seatrout and red drum in Mississippi Sound and adjacent waters.	49,878	66,503
TEXAS	Finfish harvesting studies in Texas estuaries - Study statistics and method of capture of commercial species in estuaries.	161,250	215,000
	Commercial fishery catch statistics - Gather, compile, publish, and make available fishery statistics for fish, crab, and oyster landings from the coastal area.	28,500	38,000
	Shrimp and finfish investigations in the northwest Gulf - Study movement and growth of the subject stocks by mark-recapture experiments.	56,250	75,000
	Studies of shrimp populations in selected coastal bays of Texas - Determine shrimp movements and abundance in order to recommend shrimp harvest regulations.	54,000	72,000

GULF STATES AREA	PROJECT TITLE & BRIEF DESCRIPTION	FUNDS REQUIRED FEDERAL $	FUNDS REQUIRED TOTAL $
PUERTO RICO	Commercial fisheries statistics - Collect and analyze commercial fisheries catch statistics from coastal Puerto Rico.	119,250	159,000
	Monitoring and assessment of Puerto Rico's commercial fisheries - Determine seasonal and yearly variation in deepwater demersal fish and spiny lobster.	106,500	142,000
VIRGIN ISLANDS	Commercial fisheries research and development in the U.S. Virgin Islands - Identify needs and implement management strategies to achieve the optimum sustained use of the Virgin Islands commercial marine fishery resources.	25,896	34,528

APPENDIX B

A Resolution of the Northeastern Division of the American Fisheries Society Affirming Continued Appropriations for the Commercial Fisheries Research and Development Act and the Anadromous Fish Conservation Act.

WHEREAS President Reagan's Proposed FY 1983 Federal Budget contains no request for continued appropriations for the Commercial Fisheries Research and Development Act (P.L. 88-309) and the Anadromous Fish Conservation Act (P.L. 89-304); and,

WHEREAS these two laws, since their enactment in the mid-1960's, have provided, through matching grants-in-aid to the States, much of the funding necessary to acquire, analyze and interpret resource and fishery information so vital to sustain intelligent State/Federal management and development of our Nation's fisheries resources, particularly in the marine environment; and,

WHEREAS the vast majority of our Nation's marine fisheries resources are interjurisdictional (i.e., they transcend, or migrate across, boundaries separating areas of Federal and State jurisdiction), thereby connoting a clear Federal, as well as State, responsibility to share in the costs of such management and development requirements; and,

WHEREAS such fisheries resources cannot be effectively managed as single units throughout their range, as required by the Magnuson Fishery Conservation and Management Act of 1976, without continued State/Federal cooperation, including the sharing of associated costs;

NOW, THEREFORE BE IT Resolved by the Northeastern Division of the American Fisheries Society, assembled at its Annual Meeting at the Hyatt Hotel in Cherry Hill, NJ, on April 14, 1982, that the President and the US Congress, respectively be urged to request and restore, appropriations for these Acts in amounts at least equal to those appropriations provided in FY 1981, or to request and enact some appropriate alternative legislation that will provide the Federal funding necessary to accomplish the same objectives.

STATEMENT OF THE OREGON DEPARTMENT OF FISH AND WILDLIFE

The Oregon Department of Fish and Wildlife is deeply concerned about the serious impacts that will result to northwest fisheries from reduced funding in the proposed FY'83 budget for National Marine Fisheries Service. These funding reductions will significantly curtail the Columbia River Program, eliminate all funding under the Anadromous Fish Act (P.L. 89-304) and the Commercial Fisheries Research and Development Act (P.L. 88-309), and will terminate all programatic funding for work associated with the Pacific Fishery Management Council.

1) Columbia River Program

The Administration's budget proposes about a $3.5 million reduction in the Columbia River Program from the FY'82 funding level of $9.2 million to a FY'83 level of $5.7 million. National Marine Fisheries Service has proposed to allocate to Oregon $910,400 of the total $5.7 million. We have prepared a budget requirement of $3,456,446 for FY'83 to maintain full hatchery production in the nine fish rearing facilities operated by Oregon. If the proposed budget cuts are enacted, fish production would be cut from 38.7 million to 11.3 million salmon and steelhead--a loss of over 27.4 million or about 71% of the hatchery fish currently being released into the Columbia River from Oregon Department facilities. These substantial cuts would require six fish hatcheries and two satellite rearing facilities in Oregon to close with only Bonneville Hatchery remaining at full production. The capital investment of the six hatchery facilities recommended for closure is over $10 million with a replacement value that is closer to $50 million. Total reduction in hatchery fish production for the Columbia River hatcheries (Ore.-Wash.) as proposed by NMFS would reduce the annual harvest of salmon and steelhead by northwest and Alaskan fishermen (both Indian and non-Indian) by about 1.2 million fish with an estimated economic value to the region of over $52 million.

We are alarmed that the Department of Commerce would propose such a drastic reduction in a program that just a year ago received such wide and sound support. The northwest fish agencies agreed at that time that alternate funding sources should be explored for future operation of Columbia River salmon facilities and related activities. This Department is involved in this effort as are other fisheries agencies through the Columbia River Fisheries Council. However, we recognized that implementation of any new funding option could not occur before FY'84. We believe the Columbia Fisheries Program must continue at the current production level until such time as alternate funds are acquired. To close hatcheries now while we are working towards new funding options does not make good management sense nor does the decision provide a positive attitude in cooperatively achieving the Administration's ultimate goal.

Also, the proposed FY'83 budget for the Columbia Fisheries Program would severely curtail services to hatcheries for disease control, diet quality control, fish rearing practices, and fish food programming which have been cost effective programs to increase hatchery fish survival and thus, contribution to the fisheries. In addition, maintenance and repair of irrigation diversion screens and fishways would be reduced in northeastern Oregon streams further impacting the survival of downstream migrant salmon and steelhead. These are the stocks of fish that the Treaty Indians primarily depend upon for their fisheries.

RECOMMENDATION: The Department requests that the Appropriations Committee add $7.6 million to the proposed $5.7 million included in NMFS proposed FY'83 budget. This add-on would assure full hatchery production at all state and federal facilities that have traditionally been funded by the Columbia River Program. Oregon's share of the add-on would be about $2.6 million and will provide full hatchery production, hatchery technical services, and continued operation of the screen and fishway maintenance program.

2) P.L. 89-304 and P.L. 88-309 Programs

Elimination of the Anadromous Fish Act (P.L. 89-304) funding will terminate a major portion of the Department's high survival diet project for salmon as well as other aspects of the nutrition program. Fish disease services to hatcheries for salmon and steelhead will be cut in half and the fish disease research work would terminate. Survival studies involving time and size of release of hatchery fish will be reduced and studies on the effectiveness of therapeutic drugs will be eliminated. Over half of the coded wire tagging and recovery processing capability will be lost, seriously affecting other fish management programs relying on tagging information. Reduction in these programs also reduces the agency's capability to obtain information for managing the critically important ocean salmon sport and commercial fisheries. There will be no in-season processing of data on harvest rates and consequently no in-season management capability to adjust seasons as is presently being utilized in the coastwide regulation of the fisheries. The lack of this management capability leads to severe economic impacts for the fisheries.

In the research area, the FY'83 proposed zero funding for the Anadromous Fish Act will reduce the study effort to develop ways of using hatchery fish to supplement the depressed wild populations. Lack of federal funds will require the termination of the program to eradicate a virus disease from one of the most important chinook stocks in Oregon. Several important studies on hatchery and natural production of chinook and coho salmon will be terminated.

With no funding for the Commercial Fisheries Research and Development Act (P.L. 88-309) we will seriously limit the management capability for groundfish, shrimp, and scallops. The groundfish work is in conjunction with the funding from the Regional Council and has the same basic management objectives. The shrimp work is related to assessing the status of the shrimp stocks, predicting abundance from year-class strength, and sampling the catch for incidence of small shrimp related to time, area and gear type. This information is all necessary for proper management. The scallop fishery in Oregon, because it is just developing, has very little baseline data. We are in the process of developing such information. Harvest levels must be established with the best scientific knowledge to assure optimum harvest levels for the fishermen while maintaining the integrity of the stocks. The Department believes the federal government has a clear responsibility and a strong obligation to maintain funding for these programs. The passage of the Magnuson Fisheries Conservation and Management Act (MFCMA) has placed a substantial responsibility on the state to develop information on which to base regionwide ocean management plans for salmon and marine fish. The grant-in-aid programs (88-309) and (89-304), in which the state contributes a proportionate share of the dollars, are absolutely necessary in meeting this responsibility; notwithstanding the fact that state dollars make up the major support in the overall salmon program. The impact on anadromous fish of the federal dams on the Columbia River, the complications of U.S.-Canada salmon treaty negotiations, and the increased demands of ocean fishery management brought about by the MFCMA, are all factors which are explicitly related to the federal government, but which the state has had to deal with in its management program. The state cannot, and should not, be expected to assume all these responsibilities without the federal funding assistance that has been an integral part of the cooperative fish management programs of the past.

RECOMMENDATION: The Department requests funding levels for FY'83 of $3.0 million for P.L. 89-304 and $5.0 million for P.L. 88-309 programs. The Oregon share of these funds would amount to about $740,000 for the continuation of two fish management and research programs.

3) Elimination Of Funding For Pacific Fishery Management Council Programs

The recommended cuts by NMFS will cause a reduction in processing ocean catch statistics in a rapid manner, monitoring the fisheries, recovering tagged fish, and working on a coastwide salmon plan. This will have the effect of further reducing the Council's ability to develop management regulations for the ocean salmon fisheries.

Also, management efforts on groundfish stocks will be seriously reduced because of lack of timely information on harvest figures and impacts. Because of the vastly increased fishing effectiveness of modern fishing gear, the groundfish fleets can overfish the stocks if they are not closely monitored.

RECOMMENDATION: The Department suggests that $667,000 be added to the Pacific Fishery Management Council's proposed FY'83 budget for the continuation of the studies and management programs conducted by the Council's member states under the FCMA.

In conclusion the Oregon Department of Fish and Wildlife respectfully requests that this Appropriations Subcommittee allocate additional funds in the National Marine Fisheries Service budget for FY'83 that will provide for full fish production in the Columbia River hatcheries and will continue critical research and management programs that are vitally needed to sustain the region's valuable salmon and steelhead fisheries and which provide national economic benefits.

STATEMENT OF CARL R. SULLIVAN, EXECUTIVE DIRECTOR, AMERICAN FISHERIES SOCIETY

The American Fisheries Society, founded in 1870, is the world's oldest and largest organization of fisheries scientists. Our 8,000 members have been active in fisheries research, publishing, conservation, and enhancement for 112 years. We are pleased with the opportunity to submit testimony on the National Marine Fisheries Service budget.

Mr. Chairman, the Society has asked several of its more experienced members to study the proposed NMFS budget for 1983. I might note that some of these people are former Federal scientists and administrators, with many years of experience. They have much familiarity with these programs, they are aware of the contributions they have made; and they are familiar with the budget process in both State and Federal administrations.

As your Committee well knows, conservation of our living marine resources is a Federal responsibility established by law. Thomas Jefferson recognized this responsibility in the early 1800's when he authorized the study into the decline of certain fishery resources off New England. The Fish and Wildlife Act of 1956 formally established the Federal responsibility and role. Subsequent legislation has reaffirmed this responsibility right up to the Magnuson Fishery Conservation and Management Act. Even the Office of Management and Budget, while often questioning our authority or role in certain aspects of fisheries development, has affirmed the Federal responsibility for the health and well-being of living marine resources off our coasts.

While the Federal Government was given all this responsibility, it had little authority to carry it out until the Magnuson Act. Prior to this time, the greatest contribution came from research. Research findings helped us negotiate fishery treaties, protect valuable habitat, and more recently, aided in the development of fishery management plans. The U.S. Federal Government has a distinguished record in fishery research. I wonder how many on this Committee recall that NMFS's predecessor agency, the Bureau of Commercial Fisheries, was once the largest civilian oceanographic agency in the world! It's scientific credentials were respected througout the world. We have already lost much; yes, far too much, in past budget crises! NMFS's ability to gather data for the Fishery Management Councils is already stressed to its limit.

In the early 1960's, Congress recognized that the State role in the management of living marine resources (especially in territorial waters) needed to be strengthened. Thus, there were enacted:

the Commercial Fisheries and Research and Development Act (PL 88-309) and

the Anadromous Fish Conservation Act (PL 89-304)

Since the mid-forties, there have been grants to Washington and Oregon for managing salmon and steelhead in the Columbia River, and funds for Federal programs on the Columbia to conduct a variety of research associated with salmon. In the early 70's Congress approved NMFS's request for funds to mount a State/Federal Program to help states develop fisheries management plans. In fact, the concept of Fishery Management Councils and other important aspects of the Magnuson Act evolved from this State/Federal Program. All of these programs have helped strengthen the State's capabilities in the marine area, and their ability to cooperate more actively among themselves and with the Federal Government. As an outside observer, I can attest to the fact that NMFS and the States are truly becoming partners in the management of living marine resources. The rivalries, suspicions, and unwillingness to cooperate have largely disappeared. The Magnuson Act must be given credit for bringing much of this together.

What concerns our Society is that this Administration appears to be defaulting on its responsibilities in the management of living marine resources. Fisheries programs suffered significant cuts during the last Administration, but now there appears to be even less Administration concern with ocean research, and living resource management. It is proposed that states be given much more responsibility, but not the necessary funds. A recent survey by this office disclosed that states are already falling more than $130 million per year short of meeting their fisheries funding requirements. The shifting of responsibility to states will simply add new burdens to an already "broken back."

Before I comment on the specific cuts proposed by this Administration for FY 83, I would like to place on the record a few statistics to support the fact that we are dealing with a major issue. The fishery resources within our 200-mile zone are the largest, most varied, and most valuable in the world. They comprise between 10 and 20 percent of the total traditional fishery resources of the world. No other country comes close to controlling this magnitude of renewable marine resources.

In 1980, our commercial fishery produced 6.5 billion pounds of fish, valued at 2.2 billion dollars to the fishermen. This was the third successive record harvest, making the U.S. the fifth largest fishing nation. There were 200,000 active commercial fishermen and 300,000 people working in processing plants and other related industries. Most of these people and facilities are located in small communities where a prosperous fishery is essential to their economic and social well-being.

Our statistics on marine recreational fishermen and what they catch are far less reliable than commercial fisheries, statistics, and therein lies a major funding problem. We know even less about the recreational fishing industries, the charter boat fleets, the tackle manufacturers, etc. Nevertheless, we know we're talking about an enormous social and economic phenomenon, one in fact, which may well surpass the collective commercial fishery . This is not a frivolous activity which can take care of itself. The NMFS estimates that an excess of 20 million marine recreational fishermen will be fishing in 1982. In a several instances their catch will equal or exceed that made by commercial fishermen. (A new phenomenon we are witnessing these days is that many of these recreational fishermen are utilizing their catch to reduce their food budget.) Regardless of whether for subsistance, recreation, or both, the U.S. marine recreational fishery is the largest in the world. In 1980, NMFS estimated that marine recreational fishermen caught 700 million pounds of fish and this is about equal to the commercial catch of edible marine fish by U.S. commercial fishermen. Recreational fishermen contributed between 200 and 400 million dollars directly to the U.S. economy. Many of you are aware that marine recreational fishing is a major source of income to several of our states.

It is of special significance that we are dealing with a renewable form of national wealth that is capable of being maintained indefinitely, even increased with proper management. It has an equal potential for being destroyed if neglected. This must be a concern for all of us with any responsibility to our natural resources.

I would like now, Mr. Chairman to comment specifically on those cuts proposed in the NMFS budget that concern the American Fisheries Society, and most, if not all, State Fish and Game Administrators. I will comment by subactivity, and in the same order as in the budget book.

Marine Resources, Monitoring, Assessment, and Prediction.

The cuts proposed come to $3.971 million, and involve 19 permanent positions, mostly scientists. These cuts, for example, will affect the quality and timeliness of stock assessments from Cape Hatteras to the Gulf of Maine. Many people are concerned that the cuts will prevent accurate stock assessments on critical fisheries such as scallop, cod, haddock, and yellow-tail flounder. When New England commercial and recreational fishermen realize that these stocks may already have been overfished, the Government will lack the timely data to either support or refute the claims. With the Canadians involved in these fisheries, there is an even greater need to have accurate and timely data.

The cuts proposed in stock assessment in the Northwest may not yet represent a serious resource threat, but they will affect our ability to keep accurate record of the abundance and distribution of some of our most valuable commercial species, such as king crab, salmon, Alaska pollock, etc. The impact will first be felt when the commercial fishing industry is not able to make timely decisions regarding fishing strategy, etc. The cuts will mean termination of the high seas salmon survey and there will be no way of accurately monitoring the Japanese high seas fishery. It will also eliminate pre-season forecasts of Bristol Bay salmon runs. Salmon fishermen or processors will be concerned as to how such cuts will affect the cost of future operations.

Other cuts will result in delays in the implementation of new fishery management plans and delays in amending existing plans. This will affect all eight Regional Councils, as well as the NMFS Fishery Centers. In many cases inadequate or obsolete data will force fishery managers to be overly cautious in protecting stocks not now being over fished. It is the industry and consumers who will suffer.

The proposed cuts would eliminate most of NMFS's research into better and more efficient ways of stock assessment and data processing. It will also force closing of a small facility at the National Space Technology Laboratories (NSTL), at Bay St. Louis, Mississippi. Here a handful of NMFS scientists have been able to transfer the technology of space to fisheries management. They effectively capitalize on the remote sensing, computer science, and engineering expertise at NSTL. Already this expertise has resulted in a model observer program for Japanese long-line vessels in our FCZ, plus an excluder device to protect endangered sea turtles from shrimp trawls while maintaining an acceptable level of shrimp catches. The tracking of whole herds of porpoise has been made possible by use of NSTL facilities. Demonstrations of remote sensing techniques to aid commercial fishing operations also have received critical interest and response. Elsewhere, NMFS scientist are exploring the possibility of using commercial fishing boats in certain stock assessment operations in place of more expensive research vessels. Rather than cutting this type of research program, money could be saved if funding was increased.

One result of proposed cuts should be of great concern to this Committee in that it will further reduce our credibility with the Canadians. I have already mentioned the situation on the east coast, but on the west coast, the proposed reductions in salmon surveys could seriously delay agreement with Canada on Pacific salmon interceptions. Here again everyone suffers, the resource, the fishermen of both countries, and last but not least our scientists and the the tremendous investment the taxpayers have in them. A particularly critical cut is the proposed termination of ecosystem modeling in the Gulf of Alaska and the Bering Sea plus important research on the release time for hatchery-reared salmon. These long-term oceanographic studies for which NMFS's predecessor agency was so famous, and from which has come such a wealth of knowledge, are now mostly terminated. As a consequence we will be forced to retreat to ineffective "horse and buggy" management regimes.

Conserving Marine Resources

In recent years we have been losing 100,000 acres each year of irreplaceable estuarine and other wetlands, (more than any time in our history) and more marine species than ever are threatened with serious decline. NMFS now proposes to cut 63 permanent positions and $4.371 million from this habitat protection activity. The rationale given is that other Federal and State agencies with environmental protection mandates and authority should assume more responsiblity. Mr. Chairman, I hardly need comment further on the likelihood that "other Federal agencies" will assume more responsibility at this time. While most States might wish to assume more of this, the fact is that they simply cannot afford to do so. In fact, with most coastal states desperately seeking more tax revenue, the attractive prospect of revenues from coastal development might well lead to further environmental degradation. As I mentioned earlier, the Federal Government has a mandated responsibility for the conservation of living marine resources. That mandate includes resources dependent on the quality of the environment in State territorial waters, such as shrimp, (our most valuable commerical species) and salmon, the 3rd most valuable commercial species, and the most valuable marine sport fish of the western States. It likewise includes the menhaden, the most important commercial species in terms of volume and striped bass, one of our most popular marine sport species. The list goes on and on. Does this Committee cling to the hope that other Federal and State agencies will "assume more responsibility"? It's liable to be a long wait.

One of the tragedies of proposed cuts would be the closing of the Oxford Laboratory, located just a couple of hours from here on Chesapeake Bay, the world's largest and most productive estuary. This is the only Federal Laboratory on the Bay; it has a distinguished reputation throughout the world in matters of shellfish diseases, shellfish aquaculture, and in the study of estuarine processes. The lab is constantly involved in cooperative investigations with numerous Federal agencies, such as FDA, State Department, National Cancer Institute, etc. The scientists from this facility have a long record of involvement with the commercial fishing industries from this and other countries in matters relating to fish and shellfish diseases. These kinds of skills are extended to academic institutions throughout the world, and to numerous foreign governments and international organizations. Closing this laboratory seems to us like incredibly shortsighted folly.

Another victim of proposed cuts under this subactivity is the NMFS laboratory at Tiburon, on San Francisco Bay. It is the only Federal Fishery and Oceanographic Laboratory between San Diego and Seattle. Closure would cause NMFS to lose another 17 scientists, plus other skilled technicians and supportive staff. Closure would elimiate cooperative programs with several academic and state institutions in California, with the Department of Interior and the NOAA/NMFS Navy Climate Program, another long-term oceanographic program soon to be sacrificed. The Tiburon Lab actively coordinates with the State of California on long-term projects, such as the effect of pollution on important recreational and commercial species along the western coast. Its scientists are looking into causes of striped bass mortality, prey and predatory relationships in California coastal waters and numerous other research projects for the Pacific Fishery Management Council. The Lab's scientists are members of this Counsil's special task forces for fishery management plans, and their professional skills are frequently utilized. All such services would end with the closure of the laboratory.

Environmental Impact Analysis

Staff in this environmental subactivity have played an important role in reducing the environmental impact of Federally-funded projects throughout the U.S coastal and marine areas. The proposed cut of 15 personnel and 1.424 million dollars eliminates the ability of NMFS to respond to proposed developments in the marine area. Again, the rationale for these cuts is that the States and other Federal agencies will take over, but will they ? Can they? The people in this subactivity do not do research. Rather, they take research results from elsewhere (mostly NMFS scientists) and use it to predict the impact of proposed developments. As noted earlier, the people in this program have saved vast areas of priceless wetlands, and prevented developments that would have caused serious pollution.

Columbia River Program................$3.466 million

The proposed cut is the first of a three year phase-out of Federal funding of salmon and steelhead hatcheries in the Columbia River Basin. The concept is that the States will be able to fully fund the program after three years. This cut will require the closing of at least 7 hatcheries and reduce salmon production in the remaining hatcheries from 15 to 50 percent. Salmon research would be reduced by 25%. Washington and Oregon have perhaps the greatest fisheries funding problems in the 50 states. They cannot assume this added burden.

Mr. Chairman, The cost benefit from this program has been higher than any in NOAA, and perhaps one of the highest in the Federal Government. The economic loss from only the first year cut has been estimated to be 15 to 20 million dollars over a two or three year period. This, of course, does not include the cost from the possible loss of certain genetic strains of salmon.

Aquaculture Research and Development

Eliminating this subactivity, with its 68 full-time personnel would essentially take this government out of mariculture. After the fantastic achievement of our Department of Agriculture in the agricultural area, it is difficult to understand the Administration's reasoning. Most of our imbalance of payments from fish imports come from fish stocks which are fully exploited off our coasts. Some of these are high unit-value species such as shrimp and lobster which we know lend themselves to aquaculture. It has been shown that industry will take over in aquaculture once the basic research has been done. This is how new businesses and new jobs are created.

Another tragic consequence of this proposed cut would be the closure of the Galveston Laboratory. Not only would this essentially destroy the U.S. capability in shrimp aquaculture, it would reduce NMFS capabilities to do research on shrimp ecology and dynamics in the Gulf of Mexico and its associated estuaries. Cooperative research with Texas and Louisiana on juvenile shrimp survival in estuaries would be greatly reduced and become far more costly and less efficient. It was data from this laboratory that provided the Gulf of Mexico Fishery Management Council the information needed to adopt the so-called Texas closure provision in the Shrimp FMP. Subsequent data from the laboratory helped to document the impact of the closure and showed that an additional $22 million went to the shrimp industry as a result. Information for additional shrimp management measures would be essentially terminated by closure of the laboratory. Other fisheries would also be affected, as would the Region's turtle research (required under the Endangered Species Act).

Mr. Chairman, the American Fisheries Society, the Gulf States Marine Fisheries Commission, the Gulf States Fish and Game Administrators, the fishing industry and the oceanographic community are all on record opposing the closure of the Galveston Laboratory.

Fisheries Grants to the States

This Administration is anxious to give the States more to say about their own affairs. This concept is supported by block grants for health, medicare, etc. But, where are the block grants in the area of environment and conservation? The Anadromous Fish Program (PL 89-304) which provides funds for grants to 18 states, and the Commercial Fishery Research and Development Act (PL 88-309) which does likewise to 50 states, Puerto Rico and Pacific Island territories have been completely terminated in the 1983 budget. These were essentially block grants to the states, but now they are gone with absolutely no prospect of the states assuming the cost. These cuts were not initiated by NMFS, but rather required by the OMB. Yet these two grant programs are at the heart of NOAA/NMFS's State/Federal program for fisheries management. Without them the State's role in implementing the Magnuson Act will be severely impaired... thereby crippling the Act's overall performance. We are told that about 50% of PL 88-309 funds are used in support of the Magnuson Act. Ten percent is used to gather fishery statistics which could not be obtained in any other manner. Many States will undoubtedly be forced to abandon efforts to conserve, develop, and enhance anadromous fishery resources.

With the elimination of grant programs, ongoing projects will be abandoned, thus wasting 2-8 years of past funding and data collection. According to our assessment, only about 7 of the 28 coastal states and territories will be able to continue their marine programs without any serious impact to the resources. Of the remaining 21, there will be either a serious reduction in programs, or programs will be terminated entirely. Of the 600 State personnel employed under these grants, our information suggests at least half will need to be released. This represents a serious loss of scientists and technicians at a time when we need to do more. Remember, too, that a significant number of these programs complement or augment NMFS programs, so that the total impact is far more serious than I have presented it. Informal surveys by NMFS and this Society tell us that the States themselves simply do not have funds to replace the Federal dollars lost. Meanwhile critical coastal environments and resources could suffer irreversible damage.

Regional Fishery Management Councils

The eight Regional Councils established under the Magnuson Act are the very foundation of this unique fishery management regime. A regime which was conceived by Congress and is now emulated in many other countries. The most important work of the Councils is the preparation of fishery management plans. The plans prepared to date reflect the input of people who are familiar with the problems unique to the region and the fishery. This is what Congress wanted, and by and large, it's working pretty well. The proposed cut of $3.3 million is 40% of the total Council funding. NMFS has informally told me that such cuts would be across the board, hitting all councils proportionately, thus it will have serious repercussions in all regions. The rationale given by the Administration is that this cut is consistent with administration policy to reduce regulatory actions, especially those that are an unnecessary burden. We challenge anyone to show a fishery regulation in a plan prepared under the Magnuson Act and presently in existence, that is an unnecessary burden. There are of course some regulations that are restrictive, such as for salmon, or groundfish in New England, but these are for the conservation of the resources. Some people would have us believe that since the major fisheries are now under management, the Council workload is shifting from plan preparation to plan monitoring; the latter requiring much less funds and a reduced staff. There is considerable monitoring of plans but the record shows that such monitoring exposes need for major amendments to the plans. These amendments are often as complicated as the original plan, and just as time-consuming. In fact, Councils will need their present funding and staff complement until at least 1985.

NMFS has reported that the impact of this reduction will delay bringing additional species under management or will delay amendments that would improve the quality of present plans. They also concede that it would increase the risk of resource damage and loss of U.S. harvest and economic rent from foreign fishermen.

Mr. Chairman, the American Fisheries Society appeals for the restoration of funds in all these areas of fisheries management and research. Normally, we would feel obligated to suggest where the funds might be found, though most assuredly it would be hard to suggest somewhere else in the hardpressed NMFS budget. The fact is that NMFS has faced serious budget and personnel cuts for at least 4 years. There simply cannot be much fat left in this agency. Additional cuts will further dampen agency morale, which is already at an all time low. Good scientists are questionning the wisdom of working in this agency or any government agency, and regrettably some are leaving the fishery profession altogether.

If administrative and financial support for the National Marine Fisheries Service continues to deteriorate, the agency cannot successfully carry out its mandate to conserve and manage our renewable living marine resources. Many remaining research and management programs will collapse for lack of critical mass of competent scientists and managers. Finally, a cut of the proposed magnitude will tip the scale away from the environmental checks and balances which have made it possible for NMFS to fulfill its habitat conservation responsibilities.

STATEMENT OF DR. RUDOLPH A. ROSEN, FISHERIES RESOURCE SPECIALIST, FISHERIES AND WILDLIFE PROGRAM, NATIONAL WILDLIFE FEDERATION

The National Wildlife Federation (NWF) is a private, not-for-profit conservation-education organization with over four million members and supporters and affiliate organizations in the fifty states, Guam, Puerto Rico, and the Virgin Islands. Many of our members and members of our affiliate organizations enjoy the natural resources of our estuaries and oceans. NWF has consistently expressed concern for marine and anadromous fisheries and has staunchly supported U.S. management of fisheries resources within the 200-mile limit.

NWF is opposed to the disproportionate cuts in the proposed budget for the National Marine Fisheries Service (NMFS). The Administration has proposed a full 33% reduction in NMFS funding from a base of $157.6 million in FY'82 to a total funding level of $106.7 million in FY'83. Considering the level of inflation, the reduction in funding actually will be greater than one-third of the budget of an agency that we feel has been underfunded for the past several years. The 8 March, 1982 Report of the Senate Committee on Commerce, Science, and Transportation to the Senate Committee on the Budget on the Proposed Budget for Fiscal Year 1983 of NMFS noted that "the National Marine Fisheries Service is operating with fewer personnel and only slightly more funding (in uninflated dollars) than in 1972--despite major new responsibilities in marine mammals, fisheries management (200-mile limit), fisheries development and many other areas." If the proposed FY'83 budget is implemented, NMFS will be unable to maintain essential services to commercial and recreational fishermen and be unable to continue to develop fisheries management strategies that conserve and fairly distribute our nation's marine and anadromous fisheries resources.

NWF appreciates the very professional efforts of NMFS administrators to lighten the impact of these drastic cuts. Unfortunately, it will be difficult, if not impossible, for this agency to continue to function in a reasonable manner if these budget cuts are fully implemented. As now planned, these reductions will greatly harm NMFS's ability to perform impact review and analysis in addition to other important functions. These reductions will be rapidly felt in many coastal areas of the U.S. and we encourage the

Senate, and this Subcommittee in particular, to fully examine these impacts before accepting the Administration's proposal. That proposal, based on false economics, is designed to save a few federal dollars at the expense of recreational and commercial fishermen who utilize a resource worth over $12 billion in 1980.

NWF recognizes the need to reduce federal spending, reduce unnecessary and burdensome regulations, and return to the states programs that are best handled by local government. However, by eliminating important state-federal cooperative programs such as Anadromous Fish Conservation Act grants (P.L. 89-304), where there is clear federal as well as state responsibility, the federal government is making an indisputable statement of apathy for our valuable fisheries resources.

Although NWF is concerned with a broad array of NMFS programs and the potential effect of the proposed funding levels on these programs, the remainder of our statement will concentrate on five programs that members and affiliates of our organization have expressed extreme concern over.

Anadromous Fish Conservation Act (AFC)

Anadromous fish constitute a resource that by their very nature are a shared state-federal responsibility. These fish spawn in states' waters, but as adults migrate freely in the ocean and across states' boundaries, and, in some cases, such as the Atlantic salmon, between nations. Clearly, the complete elimination of the state-federal Anadromous Fish Program, as has been proposed, is a federal repudiation of its responsibility to support research, management, and enhancement of shared fishery resources. In addition, elimination of this program will sacrifice the major investments of the past decade in ongoing research and data collection.

The track record of programs funded by AFC monies is clearly an impressive one. Since the program began the total federal investment of $76 million has yielded over $1.2 billion in direct benefits to our nation's fishermen.

A good example of the successful use of the state-federal grants can be seen in the restoration of American shad and blueback herring to a single section of the Connecticut River in Massachusetts. In the early 1970s, only about 50,000 anadromous fish per year passed over the Holyoke Dam on the Connecticut River in Massachusetts. By 1976, nearly 400,000 fish passed over the dam, and as of last year the run of fish in that location exceeded one million. This dam was the first over which fish were passed in the re-establishment of the Connecticut River anadromous fish run. Upriver, two additional dams were recently retrofitted with fish passage facilities and at dams farther upstream, plans for fish passage facilities have just begun.

On this same river system the return of the highly prized Atlantic salmon has been equally as dramatic. Starting with the return of a single fish in 1974, the numbers of Atlantic salmon that moved into the Connecticut River to spawn jumped to 7 in 1977, 175 in 1980, and last year a total of 553 Atlantic salmon ascended the River.

Who benefits? Certainly, anglers in the four states bordering the Connecticut River benefit, as do recreational and commercial fishermen along the coast because these Connecticut River anadromous fish migrate along the Atlantic Coast from North Carolina to Maine and into Canadian waters. The shared nature of this resource demands federal involvement.

NWF is also deeply concerned about the anadromous striped bass. In March of this year, NWF passed a resolution (attached) that expressed extreme concern that striped bass be properly managed and that funds be provided for Section 7 of AFC, commonly known as the Chafee amendment or the Emergency Striped Bass Study (P.L. 39-304, as amended). The proposed NMFS budget includes no money for Section 7. The striped bass is one of America's most esteemed game and food fishes and it has been a staple for commercial fishermen since colonial days. Anyone who fishes along the Chesapeake Bay or the Atlantic Coast, or knows someone who does, is aware of the low number of fish being caught; populations are declining and action, not inaction, is needed.

The Emergency Striped Bass Study was implemented to monitor the status of striped bass stocks and to determine factors responsible for their decline along the Atlantic Coast. These studies were coordinated with other state and federal activities, not to develop management plans, but to provide the information base from which to develop those plans and to determine the causes of the striped bass decline. Since the initiation of the Study, funding has not been appropriated at authorized levels, and Atlantic Coast striped bass stocks have sustained the worst spawning success and lowest subsequent recruitment in recent history. We strongly urge that funding be provided to allow ongoing and essential studies to be completed. To deny funds now for this purpose may bring us to the point where expensive hatcheries must be used as a substitute for the extensive striped bass spawning and rearing grounds of our East Coast rivers and estuaries.

We urge this Subcommittee to restore $3.2 million for the Anadromous Fish Program for FY'83; $0.4 million for Section 7 and $2.8 million for other AFC activities.

Conserving Marine Resources

The Habitat Conservation Program of NMFS appears to have been singled out for extraordinarily large cuts. At the same time the pullback in environmental assessment and impact analysis activities by other federal agencies has increased the need for services provided by this program. NMFS consultation is requested by various federal agencies on almost 20,000 actions annually as a result of requirements of the Fish and Wildlife Coordination Act, the National Environmental Policy Act, the Federal Water Pollution Control Act, and other legislation. NMFS provides these agencies with information and recommendations necessary to use our ocean resources wisely. Yet this essential program will receive a 42% cut in funding over FY'82 levels.

The environmental effects of activities such as ocean dumping, outer continental shelf development, and power plant construction and operation on the marine environment, especially on the resources and habitats important to fisheries of recreational and commercial value, are assessed by the Environmental Impact Analysis Program. However, these important impact analysis activities are slated for virtual elimination in some regions of the country, while in other regions, funding will continue at FY'82 levels. In the Northeast Region, a single individual will remain of the eleven NMFS staff who conducted these activities in FY'82. This individual will be responsible for an area that includes Georges Banks (one of the world's most productive fisheries), extensive salt marsh and estuarine areas, expanding anadromous fisheries, burgeoning coastal development, and a developing offshore oil industry. The budget allocated to impact assessment activities in the Northeast will be reduced by 70 percent. In the Southeast Region, which extends from North Carolina on the Atlantic Coast to Texas on the Gulf of Mexico, the cuts in funding will be about 30 percent. This area harbors some of the world's most extensively developed offshore oil lands and an expansive array of estuaries that provides 90 percent of the fisheries harvested in the Gulf. At the Washington office, the budget will be reduced by over 80 percent. We believe that the Environmental Impact Analysis Program cannot function effectively with such drastic budget reductions. Such cuts will hamper the ability of NMFS to safeguard our marine resources and, thus, will decrease the effectiveness of legislation promulgated to protect our marine environment.

Habitat Investigations, the research component of the NMFS Habitat Conservation Program, has also been severely affected by the budget axe: 100% cut in funding in Washington; 98% cut in funding at the Southeast Center; 56% cut in funding at the Northwest Center; and 24% cut in funding at the Northeast Center. Research conducted by NMFS provides essential information on the effects of chemical contamination and physical alteration on fishery habitats and the impacts upon the distribution, abundance, and physiological function of economically valuable fishes. This research is especially important to both recreational and commercial fishermen because it has focused on the effects of altering the environment in inshore areas where the bulk of our most important fisheries resources are nurtured. These inshore areas often are subject to the highest levels of contamination and development, yet these areas also support many fish during their most sensitive life stages (the eggs and young).

The Habitat Conservation Program cannot continue to implement conservation programs that effectively protect marine fisheries and other living marine resources and their environment if the Adminstration's recommendations are accepted. We recommend that funding at FY'82 levels be restored to this valuable program and that all Regions and Centers be adequately staffed and funded.

Commercial Fisheries Research and Development Act

Fisheries grants to states under P.L. 88-309, the Commercial Fisheries Research and Development Act, have been very important in developing a research base for the management of coastal and offshore fisheries. These monies fund studies conducted by the states that are essential to the development and continual update of Fishery Management Plans by the Regional Councils, and in general, to the responsible management of anadromous and marine fisheries. Again, because of the state-federal responsibility for the stocks that are assessed by these funds, there is a clear need for continued federal involvement. The Administration has recommended that no funds be appropriated for this program in FY'83. The Administration's concern that programs exclusively benefiting individual states be paid for by those states is certainly reasonable, but the significance of the Fisheries Research and Development Program to the nation as a whole is clear. Although individual states that receive these monies do benefit, so do citizens of all states when, by proper management of our fisheries, these resources yield an optimal harvest on a continued basis for all fishermen, both recreational and commercial. We recommend that $5 million be restored to the budget of NMFS for Commercial Fisheries Research and Development.

Marine Resources Monitoring, Assessment, and Prediction (MARMAP)

The Magnuson Fishery Conservation and Management Act mandated management of our fisheries resources (except tuna) seaward to 200 nautical miles from our shores. With this mandate came the need for more kinds of data and improved accuracy as Regional Fishery Management Councils began to formulate Fishery Management Plans (FMPs) for our economically important fisheries.

An extremely important and highly complex responsibility of NMFS is the assessment and monitoring of marine fish stocks. Only with precise and timely information is it possible to develop management strategies for the highly dynamic stocks of fish off our coasts. Presently, multi-species plans (such as the ground fish Plans) are being developed and implemented; such management requires an even greater depth of scientific knowledge. In practice, most marine fisheries are very complex. Often a fish stock disperses or travels over a wide area, is impacted by varied factors and at different life stages, and can be harvested by a number of means. NMFS survey data is often the only source of information from which to develop Management Plans. There are presently 22 fisheries under management, eight of which are under Preliminary Management Plans. The 14 FMPs already in place have been amended 49 times. Many additional FMPs are in various stages of development. All these Management Plans require extensive data and continual update as the fishery fluctuates. Yet, in spite of this clear need for increased quantity and quality of information, $4 million is being eliminated from the MARMAP program. We recommend that this $4 million be restored to the MARMAP Program.

Regional Fishery Management Councils

It is the responsibility of the eight Regional Fishery Management Councils to develop Fishery Management Plans (FMPs) that optimize the use of our ocean fisheries resources on a sustaining basis. The Regional Councils must be responsive to the day-to-day complex problems of managing a dynamic resource upon which often competing demands are placed. The Regional Councils oversee the management of a commercial U.S. and foreign harvest worth $6.4 and $1.4 billion, respectively, in 1979, and a marine recreational catch worth $6 billion and supporting at least 20 million anglers in 1980. We feel that it is absurd to jeopardize a resource worth over $12 billion to our country's recreational and commercial fishermen for a savings of a mere $3.3 million, yet this is what the Administration would do in proposing a 44% cut to the Regional Council's FY'82 budget of $5.9 million.

Eliminating nearly one-half of the budget of the Regional Councils seems especially unwise as more fisheries, and more complex fisheries, are coming under Regional Council management authority. The more fisheries that are managed, the more it will cost to implement the program, and the more species managed as a unit, the more detailed and accurate FMPs will have to be. The need for increased scientific information and state-federal cooperation is inseparable in this process and requires adequate funding, not only for the Regional Councils but also for programs such as Anadromous Fisheries, Commercial Fisheries Research and Development, and Marine Resources Monitoring, Assessment, and Prediction. As the excesses of previous exploitation of our fisheries resources are corrected, and the value of these resources increases, a commensurate commitment to continue effective management seems mandated. The role of the Regional Councils should be an active one. Just monitoring fish stocks is insufficient. The cuts to the Regional Council budget should be restored to FY'82 levels.

Effective utilization of our ocean fisheries requires innovative and aggressive management strategies that involve intense efforts by scientists, economists, industry, government (state and federal), and the public. Effective fisheries management requires money, but the rewards can be great. We are fortunate in this country to have the potential to truly manage our fisheries. Under the Administration's proposed budget for NMFS, our talents will be wasted and our potential gains will be lost, all for the sake of a false economy.

Thank you very much for the opportunity to present our views.

Resolution No. 14

STRONGER MANAGEMENT EFFORTS FOR MARINE STRIPED BASS POPULATIONS

WHEREAS, pressures on this limited resource are strong and increasing due to the high market value of marine striped bass and growth of recreational and commercial fishing industry, despite a decline in population levels;

WHEREAS, the major Chesapeake Bay spawning areas have not produced a dominant year class of the species since 1970; and

WHEREAS, the species and its fishery occur predominantly within three (3) miles of the coast from Maine to North Carolina, management jurisdiction for marine striped bass resides with the states rather than the Federal Government; and

WHEREAS, this coastal migratory stock is subject to varying laws and regulations of twelve (12) states and two (2) interstate commissions with a lack of coordination or cooperation; and

WHEREAS, many attempts have been made to manage this fishery in the past, but these attempts thus far have been unsuccessful. The present magnitude and efficiency of both commercial and recreational fisheries may deplete the resource levels from which recovery is slow or impossible; and

WHEREAS, funding for research is too limited and uncoordinated;

NOW, THEREFORE, BE IT RESOLVED that the National Wildlife Federation, in annual meeting assembled March 18-21, 1982, in Milwaukee, Wisconsin, hereby recognizes that the migratory marine striped bass which ranges from Maine to North Carolina is a species in need of stronger management efforts, including greater cooperation among the states and commissions responsible for its welfare; and

BE IT FURTHER RESOLVED that this organization stresses the vital and urgent need for continued funding under present legislation to satisfactorily conclude the mandate encompassed in the Chafee amendment to Public Law 89-304.

LETTER FROM THE PACIFIC MARINE FISHERIES COMMISSION, ATLANTIC STATES MARINE FISHERIES COMMISSION, AND GULF STATES MARINE FISHERIES COMMISSION

April 20, 1982

Honorable Lowell P. Weicker, Jr., Chairman
Subcommittee on State, Justice, Commerce,
and the Judiciary,
Senate Committee on Appropriations
Room S-146A, Capitol
Washington, DC 20510

RE: FY 1983 appropriations for the Anadromous Fish Conservation Act of 1965 (P.L. 89-304, as amended)

and the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309, as amended)

Dear Chairman Weicker:

The enclosed joint statement is submitted for the record on behalf of our three interstate fisheries commissions in support of continued Federal funding in FY 1983 of cooperative Federal-State fisheries programs under provisions of the Anadromous Fish Conservation Act of 1965 (P.L. 89-304), and the Commercial Fisheries Research and Development Act of 1964 (P.L. 88-309).

We believe that the issue of continued Federal participation with the States in these cooperatively funded and supported programs is truly critical to the future of regional fishery management. Under these two Congressional Acts, our States have developed the capabilities and the commitments necessary for effective interaction with Federal agencies and with the Regional Fishery Management Councils to carry forward fishery monitoring, data collection and analysis, and research programs which are essential to coordinated conservation and management of shared fishery resources. Prior to the 200 mile extension of U.S. jurisdiction under the Magnuson Fishery Conservation and Management Act of 1976 (MFCMA), this work laid the foundation for preparation of regional Fishery Management Plans (FMPs) by the Regional Councils established under that Act. Since MFCMA, State-Federal cooperation to implement those Plans has depended heavily on the mechanisms for shared support provided by P.L. 88-309 and P.L. 89-304.

We find it hard to believe that only five years after the Congress created a truly effective regional fishery conservation and management program, and at the time when maximum demands are being placed upon State and Federal agencies to provide the data and conduct the research necessary for implementation, the Administration can propose to scrap the programs which make this cooperative system work.

Because we are confident that you share our commitment to effective conservation and management of our valuable fishery resources, we respectfully request your leadership, through appropriate budget allocations, to reaffirm the Congressional intent of those Acts of 1964, 1965, and 1976. To document our recommendations, we call attention particularly the degree to which these programs are directly responsive to Congressional mandates under MFCMA. We emphasize the costs of aborting these programs--the irretrievable sacrifices of past investments in projects now on-line; the inevitable shorfalls in our abilities to meet data needs and research requirements of existing regional fishery management plans; the abrogation of long-standing U.S.-Canadian fishery monitoring agreements at a critical stage in pending treaty negotiations; and the destruction of the spirit of State-Federal cooperation which has been built so carefully through the years by these programs.

We also have documented the cost-effectiveness of Federal investments in these cooperative programs--investments which generate matching contributions of money and other resources from our States, and which contribute significant economic and social benefits to the nation. Food from the sea is an annually renewable producer of national wealth, and in addition is a strategic resource of major long-term significance. Investment of public funds toward generation of those future benefits makes good economic sense.

Congress created the Federal-State cooperative progams in the mid-1960's to catalyze development of the State's capabilities to conserve and wisely use their fishery resources. A decade later, Congress again took the initiative to extend U.S. fisheries jurisdiction to 200 miles and to create an operational system for regional management. Once more we must turn to the Congress to reaffirm these earlier intentions, and to assure that the Federal commitment to regional conservation and management of regional resources is maintained and enhanced.

Yours sincerely,

John P. Harville, Executive Director
Pacific Marine Fisheries Commission

Irwin M. Alperin

Irwin M. Alperin, Executive Director
Atlantic States Marine Fisheries Commission

Charles H. Lyles

Charles H. Lyles, Executive Director
Gulf States Marine Fisheries Commission

STATEMENT OF THE PACIFIC MARINE FISHERIES COMMISSION

Mr. Chairman, the three interstate marine fisheries Commissions representing 25 coastal States respectfully urge decisive action by your Subcommittee to continue Federal support for the Anadromous Fish Conservation Act of 1965 (P.L. 89-304, as amended) as an integral component of the National Marine Fisheries Service budget. We believe that the time now is critical for the Congress to reaffirm its mandate for active Federal participation in these State-Federal cooperative programs, which can contribute so significantly to this nation's economic well-being. We propose continuation of the FY 1982 appropriation level of $3 million for FY 1983.

Mr. Chairman, we urge this continuing commitment of Federal participation in these cooperative Federal-State programs as a reaffirmation of Congressional intent in several areas. First, Congress repeatedly has emphasized the national interest in effective husbandry of our natural resource base, which from our earliest colonial beginning has provided the cornerstone for America's economic growth. Second, in full recognition of our Constitutionally established Federal-State political structure, the Congress specifically has addressed the need for Federal/State interaction for conservation and wise management of regionally distributed natural resources. Landmark legislation of the 1970's, including the Coastal Zone Management Act, the Marine Mammal Protection and Endangered Species Acts, and the Magnuson Fisheries Conservation and Management Act, have established objectives and processes for these interactions, and supportive Federal appropriations have enabled us to put this regional machinery in place. The States have responded by allocating increasing shares of their own resources under these regional programs, and particularly have shaped their participation under programs such as the Anadromous Fish Conservation Act to contribute to the research needs and the data base required for wise management of regionally shared fisheries.

We share with you and with other Congressional leaders an acute awareness of the economic crisis this nation faces, and we concur in the need to move aggressively toward effective budget control. However, we cannot agree with the Administration's position that this budget-balancing process requires scuttling a cooperative State-Federal program which was mandated by the Congress to improve our ability to conserve, develop, and use wisely our anadromous fishery resources. Dollars provided to this program on a cost-sharing basis by both State and Federal governments should be viewed as investments in future social and economic benefits, which therefore are budget commitments to be protected as provident uses of public funds for the national welfare.

Leaders of the two Federal agencies sharing responsibility for program administration under the Anadromous Fish Conservation Act have endorsed the need for effective Federal-State interactions for management of shared fishery resources. National Marine Fisheries Service Director William G. Gordon, in a policy speech before the Pacific Marine Fisheries Commission last November, underscored development over the past several decades of mechanisms for bridging the gap among separate jurisdictions governing shared resources. He cited creation of our three interstate marine fisheries commissions as steps toward multi-State cooperation in fisheries affairs; also Congressional enactment of the U.S. Fish and Wildlife Act (1956), the Commercial Fisheries Research and Development Act (1964) and the Anadromous Fish Conservation Act (1965) as mechanisms to improve fisheries research and management and assure that these renewable natural resources make a material contribution to the national economy and national food supply.

Gordon cited conclusions of the 1969 Stratton Commission that the burgeoning ills and problems of U.S. fisheries could be traced to two basic causes--the common property nature of these resources, and the multiplicity of jurisdictions responsible for their conservation and management. Gordon particularly identified progress made in the decade of the 70's under the NMFS State/Federal Fisheries Management Program in "the pioneering of a cooperative approach to marine fisheries management, (much of which became) written into the Magnuson Fishery Conservation and Management Act... It is an understatement to say that the success of the Act depends upon effective State/Federal interaction, because most of the resources receiving attention under the Act's authority occur, and are harvested in, both the FCZ and State waters."

Both in his speech and in the public discussion thereafter, Gordon recognized the significant contributions of the Anadromous Fish Conservation Act to Pacific Coast salmon and steelhead conservation and management. Particularly he cited the importance of salmonid stock assessment studies through micro-tagging and tag recovery, also the development of fishery models to quantify the impact of proposed management practices, which are basic necessities for Regional Management Council preparation of fishery management plans. He also acknowledged the essential contributions of all salmonid studies for meeting the scientific data exchange requirements basic to the ongoing negotiation of a U.S.-Canada treaty for coordinated management of salmonid fisheries.

Galen Buterbaugh, Associate Director of the U.S. Fish and Wildlife Service, gave this assessment of national benefits and supportive values of anadromous fish programs in 1979 testimony before the House Subcommittee on Fish and Wildlife Conservation and the Environment:

> "The species of fish that benefit from the Anadromous Fish Conservation Act provide our Nation with a nutritional, recreational, and aesthetic resource... These species of fish are influenced to a greater degree than other fish by changes in the environment. Anadromous fish thrive only when conditions in the headwaters, downstream areas, and the oceans are suitable for the stages of the life cycle using those areas. Deleterious conditions in any one area may have harmful effects on entire populations...
>
> "The several States vested with management authority have made a sincere effort to discharge their obligation and, within their limited means, to conserve and enhance the anadromous fish resources within their respective boundaries. They need help. Not only do they need help with local problems, but there are many problems that reach beyond State boundaries. Your Committee recognized this in sponsoring legislation to establish and twice extend the authorization for the Anadromous Fish Conservation Act, thus providing a stable and beneficial Federal-State cooperative program." (underline emphasis added)

Buterbaugh urged continuation of the Act as "a proven program that provides benefits that greatly exceed its costs, and preserves a resource that bestows a multitude of benefits on our society". He illustrated those public benefits by citing an array of programs developed under the Act. These included construction of five new anadromous fish hatcheries and renovations of ten others, resulting in an increase in production estimated at 39 million fish per year. He reported the clearing of over 850 miles of streams to restore spawning opportunities for anadromous fish through construction of fish ladders and removal of dams and other obstructions. He emphasized the importance to the east coast of restoration of Atlantic salmon and American shad runs, and the contributions made to salmon management on the west coast by assistance to the Indian Tribes for development of computerized salmon harvest assessment capabilities. He also cited the research which produced a vaccine to immunize juvenile salmon and trout against deadly saltwater vibriosis disease, and which developed a new technology for mass innoculation of fish.

Mr. Chairman, we believe that these public statements by Federal agency leaders powerfully reinforce our position on behalf of our 25 member States that the Anadromous Fish Conservation Act provides a vital linkage of Federal and State capabilities for anadromous fisheries conservation and provident management. We find it truly incomprehensible that the Administration should now propose terminating Federal support under that Act. We have to believe that the full consequences of abandoning cooperative State-Federal conservation and management of salmon, striped bass, and other valuable anadromous fisheries have not been adequately assessed. Closing out these productive programs would cast aside mechanisms of proven value for carrying out the intent of Congress for cooperative multijurisdictional management of regionally distributed natural resources (per provisions of the Wildlife Conservation and Management Act, the Magnuson Fishery Conservation and Management Act, etc.) Moreover, loss of these programs would sacrifice major past investments in on-going research and data collection, and would effectively foreclose future options for supporting regional and national fisheries conservation and management goals.

Perhaps most important in the long run, failure to maintain Anadromous Fish Conservation Act programs will be perceived as a Federal repudiation of the basic rationale for cooperative Federal-State support of research, management, and enhancement of shared anadromous fish resources. Certainly it will force the scrapping of the operational mechanisms which have enabled our State and Federal agencies to work together so productively on problems and programs of regional importance.

To sum up: we believe six compelling arguments support the need for continued Federal participation with the States in jointly funded programs for anadromous fish monitoring, research, and management under provisions of the Anadromous Fish Conservation Act:

- implementation of Congressional intent that natural resources subject to multijurisdictional control be managed cooperatively and in the national interest, and therefore;
- support for fishery monitoring, data collection, and relevant research required under anadromous fishery management plans of the Regional Fishery Management Councils and State/Federal Management Boards;
- assurance of returns from existing heavy investments in stock assessments and other biological studies required for improved productivity and management of anadromous fisheries, and for equitable allocation of harvest benefits;
- satisfaction of international commitments with Canada for fisheries data exchange as a fundamental basis for upcoming treaty agreements;
- public values and demonstrated cost-effectiveness of these cooperative State-Federal programs; and
- contributions by anadromous fisheries to the national economy.

We emphasize that our principal objective is to assure continuity of this productive State-Federal partnership. We reject what appears to be the Administration view that this partnership is expendable. We believe that a relatively modest appropriation of $3 million at this time will underscore the will of Congress that there be a continuing Federal commitment to work constructively with the States for the conservation and wise use of shared natural resources. Certainly this joint Federal-State commitment is an essential component of our concerned efforts to enhance the renewable natural resource base represented by our anadromous fish stocks and their habitats, and thereby to ensure long-term national, social, and economic benefits as dividends from this investment of public funds.

In a supplement prepared for review by your staff, we have amplified each of these six basic arguments. Please call upon us or upon any of our member States if we can provide further information or documentation helpful to your deliberations.

Supplemental information in support of the Anadromous Fish Conservation Act (P.L. 89-304)

1. *Federal funding for programs under the Anadromous Fish Conservation Act (P.L. 89-304) is required to carry out the Congressional intent that natural resources subject to multijurisdictional control be managed cooperatively and in the national interest.*

Legislation in the 1970's has emphasized repeatedly the Congressional intent that in the national interest, regionally important natural resources should be conserved and managed cooperatively by Federal and State jurisdictions responsible for them. This approach and its emphasis on potential contributions to the national economy is perhaps best expressed in the landmark extension of fisheries jurisdiction to 200 miles--the Magnuson Fishery Conservation and Management Act (MFCMA).

National Standard 3 of MFCMA specifies that "to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination." The Act then specifies that regional fishery management plans be developed for each significant fishery by Congressionally mandated Regional Fishery Management Councils. These Councils are comprised of State and Federal fishery agency Directors and private sector members appointed by the Secretary of Commerce.

Implementation of fishery management plans for any fishery distributed across multiple jurisdictions (e.g., Federally controlled waters of the Fishery Conservation Zone beyond 3 miles, and the Territorial Seas controlled by individual States inside the 3-mile limit) requires coordinated and cooperative fishery monitoring, data collection, on-going research, and enforcement by all concerned agencies--Federal and State.

The Findings, Purpose, and Policy under which MFCMA was established emphasize the values of marine and anadromous fisheries as "valuable and renewable natural resources" upon which commercial and recreational fishing depends (cf. Attachment 1, Finding 1). Finding 3 notes that this fishing "constitutes a major source of employment and contributes significantly to the economy of the Nation." Finding 6 expressly specifies an action program to maximize national benefits from these resources and their use, as follows: "A national program for conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources". Finding 7 notes the importance of full development of the Nation's fishery resources "to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby".

The. U.S. Fish and Wildlife Service (Dept. of Interior) and the National Marine Fisheries Service (NOAA, Dept. of Commerce) share Federal responsibilities for anadromous fish species and habitats, including management of programs under the Anadromous Fish Conservation Act, and therefore cooperative interaction with the States. In general, USFWS directs principle attention to the inland waters and habitats of anadromous species; therefore to needs and problems of propagation, habitat protection and rehabilitation. NMFS emphasis is more heavily upon the ocean phase of anadromous fisheries, including ocean harvest management under Regional Fishery Management Council Plans beyond three miles, and by the several sovereign States in territorial and inland waters.

This dual Federal responsibility has worked exceedingly well. For a number of important projects, NMFS and USFWS share funding. Regional Coordinators for the two agencies work closely together in setting priorities for projects on the Pacific Coast, and an Anadromous Fish Coordinating Committee has been established and has functioned effectively for the same purposes at the national level. We commend the Directors of USFWS and NMFS for establishing these sensible and productive working relationships, which certainly are consistent with the rationale for interagency cooperation which is the foundation for the Anadromous Fish Conservation Act.

NMFS support for these cooperative Federal-State programs already has been reviewed in our testimony (p. 2). The most recent USFWS Program Management Document (1980) similarly emphasizes Federal-State interactions, setting as its principle mission to:

> "Provide the Federal leadership to conserve, protect, and enhance the fish and wildlife and their habitats for the continuing benefit to people."

The document amplifies this mission as follows:

> "The primary role of the Service's Fishery Resources Program is to promote the conservation and management of fish resources... A principle concern must be to enhance the health, diversity, and abundance of fish and their habitat. This role can be accomplished by coordinating programs and projects and providing technical assistance to the States and other agencies in those areas where the Service has no direct jurisdiction...

Relevant general objectives include participation in interagency fishery management plans for Pacific salmon and steelhead trout, development of supportive fishery information systems, improving techniques for fish propagation effectiveness, assessing effects of various harvest management strategies on the stability of fishery resources, and improving the information base concerning causes, treatments, and prevention of specific fish diseases and parasites. Several objectives specifically depend upon tangible interagency cooperation, specifying that, in cooperation with the States, NMFS, and BIA, the Service will seek to increase spawning runs of Pacific salmonids to levels consistent with habitat productivities and hatchery broodstock needs; also an objective setting a 1985 target of a 10% reduction in mortality rates of juvenile salmonids in Pacific States freshwater and estuarine habitats.

The five member States of Alaska, California, Idaho, Oregon, and Washington which comprise the Pacific Marine Fisheries Commission in 1981 unanimously endorsed a Resolution emphasizing the importance of continued Federal participation in the Federal-State partnership for conservation and wise use of shared fishery resources. That Resolution notes that recent Federal Acts such as MFCMA, the Endangered Species Act and the Marine Mammal Protection Act have established national standards which demand extensive biological, social, and economic data as basis for management decisions. Much of the research and monitoring burden for fulfilling those requirements necessarily falls upon the coastal States. While the States are strongly committed to the objectives and programs required under these Federal mandates, they too face severe budgetary constraints. Therefore PMFC's 1981 Resolution 7 calls upon Federal agencies "to establish long-term, base budget funding to support Federally mandated fishery management programs", and urges the Congress to "provide the Federal share of financial support to carry out these programs in cooperation with the States". (Text of 1981 Resolution 7 below)

FEDERAL RESPONSIBILITY TO FUND FEDERALLY MANDATED PROGRAMS

WHEREAS, recent Federal Acts such as the Endangered Species Act, Marine Mammal Protection Act and the Magnuson Fishery Conservation and Management Act have established exacting standards for resource management; and

WHEREAS, these standards include requirements for extensive biological, social, and economic data upon which management decisions are based; and

WHEREAS, the states of Alaska, Washington, Oregon, Idaho, and California are providing most of the research and monitoring efforts to provide these data; and

WHEREAS, state fiscal problems coupled with pending reductions in federal grant-in-aid will decrease funds available to the states to support these programs; and

WHEREAS, the Departments of Commerce and Interior have not provided long-term base funding for the support of these programs; and

WHEREAS, the Pacific Marine Fisheries Commission unanimously approved Resolution No. 3 in 1980 calling for USFWS and NMFS to support coastwide anadromous fish tagging and recovery programs citing the needs for management under the MFCMA;

THEREFORE BE IT RESOLVED, that the U.S. Departments of Commerce and Interior be obligated to establish long-term, base budget funding to support Federally mandated fishery management programs, including but not necessarily limited to: Commercial Fisheries Research and Development Act, Anadromous Fisheries Conservation Act, Endangered Species Act, Marine Mammal Protection Act and Magnuson Fishery Conservation and Management Act; and

BE IT FURTHER RESOLVED, that the United States Congress be obligated to provide the federal share of financial support to carry out these programs in cooperation with the States.

2. *Programs under the Anadromous Fish Conservation Act (P.L. 89-304) offer the best available vehicle for continued Federal-State cost-sharing for support of the anadromous fishery monitoring, data collection, and relevant research required under Fishery Management Plans of the Regional Fishery Management Councils and State/Federal Management Boards.*

As was noted in the previous section, major added burdens have been placed upon Anadromous Fish Conservation Act programs by enactment in 1976 of the (Magnuson) Fisheries Conservation and Management Act (MFCMA). National Standards established by that Act require that to the extent possible, fisheries be managed as a unit throughout their geographic range; also that conservation and management be based upon the best scientific information available.

Pacific salmon conservation and management problems well illustrate the need for sustained and concerted action by all our management agencies to develop the information base necessary for critical annual decisions and actions. To illustrate, salmon management plans developed by the Pacific and North Pacific Fishery Management Councils require accurate assessment of impacts of ocean harvests on a mix of salmon stocks of wide-ranging geographic origin. Without these and other assessments, under the political pressures to permit optimum utilization of stronger stocks, salmon resources from California to Alaska can be adversely affected by management decisions which fail to offer maximum protection to depleted and endangered stocks.

Decisions by both the Pacific and the North Pacific Councils in 1981 have hinged upon interpretation of data from recent coded-wire tag studies. Federal court decisions have upheld U.S. obligations under century-old Indian treaties to provide treaty tribes of the Columbia River and northern Washington opportunity to harvest their fair share of salmon and steelhead ascending the rivers to "usual and accustomed" tribal fishing grounds. Therefore State-Federal management of ocean and river fisheries must permit escapement to those rivers of amounts of fish prescribed by these court decisions.

To assure river escapements at levels which will meet both treaty Indian harvest and fish spawning escapement goals, the migrating routes of relevant fish stocks must be known and oceanic harvests controlled. As example, recent tagging studies indicate that a large proportion of chinook salmon harvested by the ocean troll fishery off Southeastern Alaska and British Columbia are of upper Columbia River origin; also that those upper Columbia River stocks are in seriously depleted condition. These tagging studies also indicate that Southeastern Alaska and British Columbia troll fisheries take nearly two-thirds of the total ocean harvest of these depleted stocks. These facts, plus the significantly depressed state of Alaskan chinook stocks as demonstrated by Alaska's coded-wire tagging studies, provided the basis for a decision of the North Pacific Council (March 27, 1981) to reduce the allowable harvest of the Southeastern Alaska troll fishery by 15% for the 1981 fishing season. This action was accompanied by the mandate to negotiate for similar reductions by British Columbia fishermen, and a demand for significant improvements in the statistical base for future decision-making through augmented studies of stocks and analysis of data.

The Pacific Fishery Management Council also has depended heavily for critical decisions on data from coded-wire tagging experiments. In 1978, after days of debate for which coded-wire tag recoveries were a critical element, the Pacific Council moved its boundary between north and south salmon management areas from Tillamook Head, close to the Columbia River mouth, southward to Cape Falcon. While this shift involved only a few miles of coast-line distance, tag recovery data indicated that more restrictive harvests north of that line could provide significant added protection to depressed Columbia River stocks, while at the same time somewhat more liberal regulations south of the line could permit fuller utilization of stronger south coastal stocks.

In 1981, similar determinations became necessary regarding boundaries to protect depressed Klamath River (Northern California) runs. Again chiefly on the basis of coded-wire tag data, management division lines were considered to reduce ocean harvest pressures on these depressed stocks, and thus increase chinook salmon escapements to the Klamath River as a means to better meet Indian harvest requirements, non-Indian fishing opportunities, and necessary spawning escapements.

While a major share of Anadromous Fish Conservation Act program emphasis is upon coded-wire tagging and stock assessments, P.L. 89-304 also assists other projects for improved management and productivity of salmon which further support Regional Council management goals. As examples, California and Oregon presently carry out major upriver stock and habitat studies designed to increase the overall productivity of presently depressed stocks of major salmon rivers such as the Klamath in California. Also under P.L. 89-304, Federal fisheries agencies, the Oregon Fish and Wildlife Department, and Oregon State University cooperatively support critically important researches into causes and prevention of viral diseases of salmonid fishes. P.L. 89-304 funding also supports a treaty Indian catch record system which enables Columbia River Tribes to provide compatible catch data to the regional data network required for proper management and allocation of salmon harvest. Still another project supports State and Federal cooperation with the University of Washington for development of an acoustical fish-counter which can more economically and accurately enumerate upstream migration of mature salmon and steelhead. Without continued Federal participation with the States in financial support for these and other relevant projects, all are in jeopardy, and the gains already achieved may be partially sacrificed.

The five Pacific States comprising the Pacific Marine Fisheries Commission (PMFC) in 1980 unanimously approved a Resolution calling for assured funding and coordination for anadromous fish programs in support of those National Standards and the fisheries management plans of the Regional Fisheries Management Councils. That Resolution emphasizes the current crisis condition of Pacific coast salmon and steelhead stocks, the importance of on-going stock assessment progams and data collection and analysis required for decision-making, and the problems facing those programs under current funding uncertainties. The Resolution therefore calls for Congressional and Executive Branch initiatives to "provide the necessary financial support for this coordinated effort by designation of the required funds for that purpose in the budgets of the National Marine Fisheries Service and the U.S. Fish and Wildlife Service." (cf. Attachment 2 for full text of 1980 Resolution 3)

3. *Continued State-Federal cooperative programs under the Anadromous Fish Conservation Act are essential to assure returns from existing heavy investments in stock assessments and other biological studies which are required for improved productivity and management of anadromous fisheries and for equitable allocation of harvest benefits.*

Some 20 State, Federal, and Indian tribal agencies presently participate in a massive Pacific area-wide program to determine contributions to ocean and river fisheries of various stocks of salmon and steelhead. This information provides the basis for allocation of harvest rights among competing users, maintenance of interception balances between U.S. and Canadian nationals, improvements in productivity of hatchery stocks, and many other functional tasks essential to effective fisheries management.

For those purposes, coded micro-wire tags are implanted in the snouts of juvenile fish prior to their seaward migration from hatcheries or natural spawning areas. More than 20 million fish per year have received these tags in recent years. Salmon feed in the ocean from one to five years before returning to their spawning grounds. Thus the oceans today swarm with many millions of maturing salmon and steelhead which carry in their snouts a multi-million dollar Federal, State, and private sector investment in these micro-tags and in the encoded data they can transmit concerning stream and date of origin, and other biological and ecological characteristics vital to future management of stocks and equitable allocation of harvest benefits.

Incredibly, the Administration now proposes that this existing massive investment be squandered for lack of continued Federal participation in the costs of recovering these tagged fish and decoding the vital information carried in their micro-tags.

It will indeed be disastrous if for lack of relatively modest Federal participation in this cooperative program ($0.8 million at the projected funding level), long-term State and Federal investments over past years in this coastwide stock assessment program are jeopardized, and our agencies are forced to forgo both the knowledge of stock distribution required for future planning, and the only credible tool available today for equitable allocation of harvest privileges among competing user-groups. The ultimate losers will be the commerical and recreational fishermen and general public who harvest the benefits from these investments.

These losses of coded-wire tagging data constitute only a part of the total cost of curtailing Federal participation in cooperative State-Federal anadromous fisheries projects. Much of the investment already made in other on-going projects will be sacrificed if those programs must be aborted before reaching their objectives. On the Pacific coast these include major investments to improve the fish husbandry practices which must supply a large proportion of the Pacific salmon and steelhead now being harvested by both commerical and recreational users. Other programs of long-term potential significance presently are underway to combat serious viral and bacterial diseases through development of vaccines and other controls. Still other projects address nutritional problems through development and improvement of practical rations for fish feeding. A wide array of physiological and genetic studies are evaluating optimum environmental conditions for a variety of different fish stocks as basis for more efficient and fruitful fish production. Most of these studies require coded-wire tagging assessments of impacts, and all depend upon maintenance of staff and program continuity.

4. *Continued Federal-State cooperative monitoring, data collection, and related researches on anadromous fisheries are essential to satisfy developing international commitments with Canada for fisheries data exchange as a fundamental basis for upcoming treaty agreements.*

The oceanic migrations of most anadromous fish species carry them far from their natal streams and therefore through the waters of many management jurisdictions. Pacific salmon have particularly extensive migration routes, ranging through the waters of California, Oregon, Washington, British Columbia, and Alaska. In all jurisdictions, these wide-ranging fishes are vulnerable to fishermen. Clearly that multijurisdictional ocean harvest must be regulated by mutual agreement to assure equitable distribution of benefits among all users and all jurisdictions. Clearly too, the coded-wire tagging studies which provide the principal basis for these allocations must be a cooperative effort among all users--the States, Canadian Territories, and Indian tribes controlling the freshwater spawning grounds, and the Federal governments of the United States and Canada which control the offshore waters of the Pacific and have responsibility for international treaties and other agreements. Within the United States, these data are particularly critical to decisions relating to Indian harvest allocations in accordance with long-standing treaty obligations.

Happily for the welfare of the resource and for our efforts to manage fisheries intelligently, all jurisdictions--State, Federal, and Indian; U.S. and Canadian--presently cooperate effectively in tagging and recovery of salmon and steelhead, and voluntarily comply with an agreed-upon system for assigning tag codes and for exchanging and publishing the data derived from tagging experiments. Long-standing U.S.-Canada informal agreements target upon 20% sampling of the salmon catch for coded-wire tag recovery and data interpretation purposes.

United States and Canadian representatives have been negotiating for many years in an effort to achieve a formal agreement for joint management of shared anadromous fisheries resources--an agreement which will assure an equitable balance of interceptions by fishermen of each nation of salmon and steelhead spawned in the rivers of the other nation. These negotiators now are on the threshold of such an agreement, which may reach the United States Senate later this year for ratification as a formal treaty. Cornerstone of that treaty will be an augmented program of coordinated research designed to improve productivity and guide cooperative management of these valuable salmon resources. Our on-going coded-wire tagging programs are the foundation for those studies.

It will indeed be a travesty if we now must abort those programs through failure to appreciate their importance; if we thereby fail to carry our share of the effort to recover the enormous U.S. and Canadian investment already made in the millions of fish now carrying coded-wire tags; and if we thus sacrifice irretrievably the data base necessary for implementation of the treaty now in final stages of preparation. Because of these international implications, maintenance of this cooperative program is primarily a Federal responsibility. While the States, the Indian tribes, and the private sector can be expected to share significantly in these costs, reasonable Federal support must continue to be provided. We urge that the Congress take steps now to assure continuation of that shared State-Federal support for a program so clearly in the general public interest.

5. *Anadromous Fish Conservation Act programs have demonstrated their cost-effectiveness and public values over the years since inauguration of this program in 1965.*

Cooperative State-Federal progams and projects supported under the Anadromous fish Conservation Act have a proven track-record of productive research, management, and enhancement of anadromous fishery resources. Federal appropriations since enactment in 1967 total more than $60 million, and have generated an approximate equivalent in State matching funds. Based on U.S. Fish and Wildlife Service testimony in 1974, that $60 million federal investment appears to have generated between $360-$480 million in public benefits--a 6-8 to 1 benefit-cost ratio.

A 1979 update of that USFWS testimony summarized program values as follows[1]:

> "...I am pleased to say that this has been a successful program in relation to its cost. Recreational fishing for anadromous fish has been increased by an estimated 8 million angler-days annually. The economic value of this is estimated conservatively at $72 million per year. Commercial fisheries landings have been increased by an estimated $5 million annually... The program (also) has stimulated cooperation between States in solving their anadromous fish problems...".

Commercial and recreational users of the Pacific and Atlantic coasts long have placed very high values on anadromous species such as salmon, steelhead, and striped bass. These species are assuming ever-increasing importance to citizens of the Great Lakes and Gulf coasts. The growth of Gulf coast striped bass fisheries illustrates the long-term contribution of P.L. 89-304 to that region. In the early 1960's, the striped bass resource in Mississippi was nearly non-existent. Habitat degradation and pollution in coastal streams and estuaries in which the fish spawn and rear during part of their life cycle were so severe that local striped bass populations were no longer self-sustaining.

Congressional appropriations under P.L. 89-304, plus matching funds provided by the State, have permitted Mississippi to begin programs of stream clearance and pollution abatement, research, artificial culture, and stocking. These programs have been on-going since 1967, and have provided a put-and-take fishery for striped bass in all major estuaries of the Mississippi Gulf coast. At current stocking rates it is believed that re-establishment of a self-sustaining population of striped bass can be achieved in this area. Before this program of rehabilitation began, catching a striped bass in Mississippi coastal streams was a rare and newsworthy event. Today the striper is once again highly sought across the Mississippi Gulf Coast--certainly a far-reaching public benefit from funds provided by P.L. 89-304.

For the year 1979, nine projects in five States addressed striped bass restoration and production projects (Alabama, Louisiana, Mississippi, New York, and Tennessee). The importance of these efforts is underscored by initiatives in 1979-1980 to develop special additional funding for Atlantic States striped bass investigations (the Chafee Amendment).

Anadromous fisheries resources of the Atlantic coast contribute major economic benefits to both commercial and recreational fisheries sectors. These fisheries include striped bass, American shad and three related species of river herrings, Atlantic salmon, coho salmon introduced from the West Coast, and two species of sturgeon. All of these species are heavily impacted by the activities of man, through fisheries practices, by gross pollution of their natal streams, and by environmental and physical barriers such as dams, which impede or exclude their ability to return from the sea to upriver spawning areas. Because anadromous fishes traverse the fisheries jurisdictions of the Federal government and numerous States, they have been among the first species to benefit from joint State-Federal and interstate arrangements for their protection, conservation, and enhancement and in 1956, joint State-Federal funding under the Anadromous Fish Conservation Act has been the cornerstone of numerous programs to accelerate and enhance these cooperative State-Federal endeavors.

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[1] Galen Buterbaugh testimony, February 28, 1979, before the Fisheries and Wildlife Conservation and Environment Subcommittee of the House Merchant Marine and Fisheries Commission.

In recent history striped bass always have ranked among the ten highest Atlantic coast species in both volume and value in the commercial fisheries. Recreational landings, which have been reported to be three to eight times larger than the reported commercial catch, have ranked among the top three species in the North Carolina to Maine area in both weight and numbers.

Most recently the striped bass population of the East Coast has suffered a catastrophic decline. This popular species provided high levels of commercial and recreational landings from the 1950's to the mid-1970's, but may now be at an all-time low throughout migratory range, from North Carolina to Maine. Commercial landings which average 9.5 million pounds between 1958 and 1976 fell to 4.5 million pounds in 1978 and have continued to decline ever since. This striped bass decline appears to be related to failure of striped bass to spawn successfully, produce large numbers of juveniles, and recruit them to the fisheries. In a valiant effort to develop a management plan to rejuvenate the striped bass fishery throughout its range, twelve States, the National Marine Fisheries Service and the Atlantic States Marine Fisheries Commission have committed their joint efforts, manpower and funds to a long-range cooperative program.

Since most spawning areas are interstate (e.g., Chesapeake Bay and the Hudson River shared by New York and New Jersey) and since oceanic migrations are coastwide, this multijurisdictional approach is absolutely essential. Initial work has centered upon investigations into the root causes of this disastrous population decline.

Recent Congressional approval of special emergency striped bass funding under the Anadromous Fish Conservation Act, has provided significant added impetus to this cooperative effort. However, only sustained funding to implement this plan and to monitor its results will guarantee the greatest possible net economic and social benefits from the harvest and utilization of striped bass over time. The key element must continue to be the matching funds under P.L. 89-304 which can generate an effective multijurisdictional approach. Without this kind of assistance, the program will disintegrate, and in all probability so will the resource.

Numerous smaller cooperative anadromous fish programs on the Atlantic coast are equally vulnerable to termination of denied support under the Anadromous Fish Conservation Act program. Examples include the multi-State-Federal program for restoration and enhancement of Connecticutt River fisheries for Atlantic salmon, American shad, and river herring, a similar program on the Merrimack River shared by Massachusetts and New Hamsphire with input from both States, the National Marine Fisheries Service and the Fish and Wildlife Service; another for shad and striped bass in the Delaware River Basin involving Delaware, New Jersey, New York, and Pennsylvania and the Fish and Wildlife Service; a joint program for the management of anadromous fish resources for shad, river herring, sturgeon, and striped bass between South Carolina and Georgia; and a joint study by Virginia and North Carolina for management of mid-Atlantic anadromous fisheries under extended jurisdiction. These and related efforts are dependent at least in part on funds appropriated under the Anadromous Fish Conservation Act, and it is impossible to conceive of their continuance without this assistance.

These resources are subject to conservation and management by both Federal and State authorities, and their harvest confers benefits upon the citizens of the entire region. Responsibility for protection and wise use of these resources accordingly rests with all concerned jurisdictions. This argues strongly for continuation of a program designed to assure effective State-Federal cooperation and sharing of manpower, physical resources, and funding support--the Anadromous Fish Conservation Act program (P.L. 89-304).

We respectfully request Congressional leadership to assure the continuity of these vital programs. We fully appreciate the gravity of the national economic emergency, and are prepared to accept a share of the sacrifices necessary to restore economic stability. However, we must emphasize that Federal support for the Anadromous Fish Conservation Act has remained at relatively low levels since the early 1970's. (cf. Attachment 3 for a review of authorizations and apropriations 1967-1982). As recent examples, combined appropriations for both NMFS (Commerce) and USFWS (Interior) were $4.33

million in 1971, increasing to $5.71 million in 1980. Unfortunately this 32% increase over nine years was undercut by a cummulative 50% drop in dollar value as a result of inflation. Thus the 1980 appropriation of $5.71 million actually purchased goods and services at only a $2.8 million level in 1971 dollars--a 35% decrease in real purchasing power below the 1971 level.

These inflation-caused losses in program support capability were further exacerbated in FY 1981 by a $1 million reduction in the appropriation for USFWS programs under P.L. 89-304. Under the continuing bite of inflation, the combined FY 1981 appropriation for NMFS and USFWS ($4.7 million) has a purchasing power in 1971 dollars of only about $2 million--less than 50% of the real program support provided in 1971. While the $3 million we have proposed for 1983 would not restore program support to 1979-80 levels, it would provide a Federal commitment of funds that, matched by State dollars, would enable us to hold the line on our essential cooperative programs.

6. *Anadromous fishery resources, for which the Anadromous Fish Conservation Act provides essential conservation and management services, make important contributions to the U.S. national economy.*

Annual total values of specific anadromous fisheries are difficult to estimate at best and not readily available, even though public interest and commitment to maintaining those fisheries demonstrates a perception that they are great. Fortunately, development of a Fishery Management Plan for Pacific salmon does provide some illustrative values as follows:

- Recent (1980) preliminary estimates of annual ex-vessel value of commercially-caught salmon in S.E. Alaska and the three Pacific Coast States is $174.5 million. Using a multiplier range of 2 to 4 to account for value-added at the retail level, the commercial salmon catch can be valued between $349 and $698 million to the U.S. economy.

- The estimated net economic value of recreational salmon and steelhead fishing in Washington and Oregon marine and freshwater areas is $73.7 million. Recreational salmon values for California, Idaho, and S.E. Alaska are unavailable but would add considerably to this estimate.

- In addition to these direct economic benefits, salmon fishing generates significant secondary economic activity. Regional economic benefits from anadromous fish production in the Columbia River alone are estimated at $102 million annually.

ATTACHMENT 1

Public Law 94-265
94th Congress, H. R. 200
April 13, 1976

An Act

To provide for the conservation and management of the fisheries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Fishery Conservation and Management Act of 1976".

SEC. 2. FINDINGS, PURPOSES AND POLICY

(a) FINDINGS.—The Congress finds and declares the following: 16 USC 1801.

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

(2) As a consequence of increased fishing pressure and because of the inadequacy of fishery conservation and management practices and controls (A) certain stocks of such fish have been overfished to the point where their survival is threatened, and (B) other such stocks have been so substantially reduced in number that they could become similarly threatened.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by United States fishermen, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

ATTACHMENT 2

PACIFIC MARINE FISHERIES COMMISSION RESOLUTION NO. 3

NEED FOR ASSURED FUNDING AND COORDINATION FOR ANADROMOUS FISH PROGRAMS

WHEREAS, Pacific Coast anadromous fishery resources are facing crisis conditions of reduced production and increasing pressures from competing harvesters; and

WHEREAS, effective production, enhancement, and harvest management depend ultimately upon the quality and timeliness of stock assessments and other scientific information; and

WHEREAS, this information base depends for much of its data upon anadromous fish tagging programs in fresh water, and the recovery of tagged fish in the ocean and inland waters of all the Pacific Marine Fisheries Commission member States; and

WHEREAS, information obtained through these required, on-going programs are included in salmon management plans and amendments thereto developed by the Regional Fishery Management Councils as specified in the Fishery Conservation and Management Act of 1976, in addition to their use in computer models being developed for inland (e.g., Columbia River) salmon management; and

WHEREAS, despite significant commitments of State and Federal funds over the years, these programs have been hampered by the ad hoc and short-term nature of that funding support; and consequently, by a lack of effective long-term planning and coordination; and

WHEREAS, these salmon and steelhead tag and recovery programs must be sustained over a period of years to produce credible stock assessment information, and further must be effectively coordinated and executed by all Pacific Coast fishery agencies, State and Federal; and

WHEREAS, the United States Congress is considering large expenditures to enhance the salmon fisheries of the Northwest; and

WHEREAS, evaluation of such an investment is necessary; and

WHEREAS, the coordination and continuity of these studies can be achieved only when sustained funding and administrative support are assured;

NOW THEREFORE BE IT RESOLVED, that the Pacific Marine Fisheries Commission affirms its commitment to National Standard 2 of the Fishery Conservation and Management Act of 1976, which requires that fishery conservation and management be based upon the best scientific information available. Further, that the Commission strongly endorses the highest priority accorded to coastwide fishery data collection and coordination by the directors of Pacific Coast fishery agencies, the Pacific and North Pacific Fishery Management Councils, and the National Marine Fisheries Service at the State/Federal Planning Conference in Alexandria, Virginia in January, 1980; and

THEREFORE BE IT FURTHER RESOLVED, that the Pacific Marine Fisheries Commission urgently requests the U.S. Departments of Commerce and Interior, in concert with the Pacific States, to establish long-term, base budget funding to support and augment an effectively coordinated coastwide program of anadromous fish tagging and tag recovery; and

BE IT FURTHER RESOLVED, that the United States Congress be requested to provide the necessary financial support for this coordinated effort by designation of the required funds for that purpose in the budgets for the National Marine Fisheries Service and the U.S. Fish and Wildlife Service.

ATTACHMENT 3

ANADROMOUS FISH CONSERVATION ACT OF 1965
(P.L. 89-304)

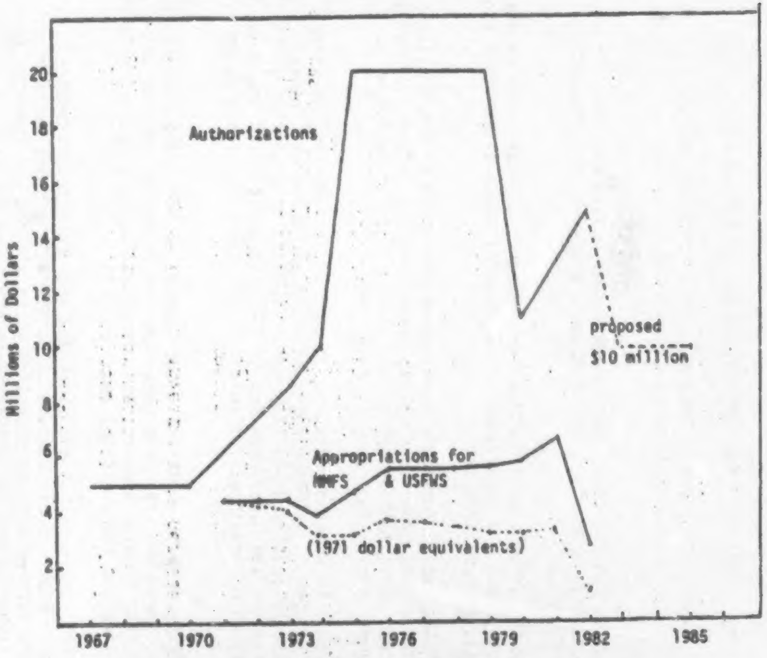
REVIEW OF AUTHORIZATIONS AND APPROPRIATIONS ($ MILLIONS)

CONGRESSIONAL AUTHORIZATIONS		CONGRESSIONAL APPROPRIATIONS		
FISCAL YEAR(S)	AUTHORIZED	NOAA/NMFS	BSFW/FWS	TOTAL
1967-1970	5.0	1.0-2.1	1.2-2.4	2.2-4.5
1971	6.0	2.0	2.33	4.33
1972	7.5	2.0	2.33	4.33
1973	8.5	2.0	2.33	4.33
1974	10.0	2.0	1.83	3.83
1975	20.0	2.0	2.63	4.63
1976-1978	20.0	2.0	3.51	5.51
1979	20.0	2.0	3.61	5.61
1980	11.0	2.0	3.71	5.71
1981	13.5	4.0	2.71	6.71
1982	15.5	3.0	-0-	3.0

SUMMARY: Congressional authorizations have fluctuated annually between $5.0 million and $20 million during fiscal years 1967-1982. The most recent authorization in 1979 set levels of $11 million, $13 million, and $15 million for fiscal years 1980 through 1982.

Despite continued Congressional recognition of program value and need, appropriations under the Act have not kept pace, decreasing from 72% of the authorized amount in 1971 to 28% in 1979, and only 20% in 1982. This problem has been exacerbated by progressive deterioration of dollar purchasing power due to inflation over this same time period (1982 dollars have only some 40% of the purchasing power of 1971 dollars).

AUTHORIZATIONS AND APPROPRIATIONS for the ANADROMOUS FISH CONSERVATION ACT (P.L. 89-304)



NOTES: Authorizations and Appropriations 1967-1982 represent actual amounts approved for both National Marine Fisheries Service and U.S. Fish and Wildlife Service expenditures under the Act. The broken line 1983-1985 is the proposed authorization level. The boken line below Appropriations indicates approximate purchasing power of those appropriations in 1971 dollars, as a result of inflation impact.

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[1] Appropriations for general Anadromous Fish Conservation Act purposes--special striped bass (Chafee amendment) funds not included.

STATEMENT OF WILLIAM D. HORAN, THE AMERICAN LEGION

The American Legion would like to thank you for the opportunity to submit our views on the status of this nation's Merchant Marine Fleet. Our position is based on National Security Resolution 385 (copy attached), adopted by the delegates of the 63rd annual National Convention in Houston, Texas. This resolution clearly indicates that our membership considers the merchant marine as the invaluable "fourth arm of our national defense," which must remain second to none.

You will recall that last year the Administration requested, and Congress agreed, that construction subsidies for vessels built in U.S. shipyards be eliminated. In exchange, U.S. shipping companies were permitted to order new vessels from lower cost foreign yards. This request, however, does not appear compatible with the President's campaign promise to revitalize the U.S. merchant marine industry. While there has been no clear-cut policy proposed with regard to the merchant marine, it would appear that the Administration is balancing subsidy reduction against relaxation of regulation in an effort to stimulate competition. This program may have merit, however, The American Legion strongly urges support for the continuation of these subsidies until the full extent of their effects can be researched.

Statistics recently issued by the International Maritime Industries Forum predict that high credit costs, world-wide recession and earlier large-scale shipbuilding will add to the deteriorating condition of the U.S. Merchant Marine industry. The accuracy of these predictions is already evident since shipping rates dropped by 50 percent during 1981 alone. Combine these facts with the affects of construction subsidy reductions and a potentially dangerous situation emerges.

As a nation, we are facing some very troubled and uncertain times. If our armed forces were deployed in some remote corner of the world to defend U.S. interests, we would also have to insure that a merchant fleet was available to keep them supplied. You are aware, I am sure, of the writings of Alfred Thayer Mahan. The merchant marine--both ships and men--is an essential arm of defense. Without reliable, effectively controlled shipping, Americas military and industrial strength cannot reach the theatre of operations. A strong merchant, therefore, insures strong military capability.

Our problem today, however, is due to dwindling subsidies. American owners cannot compete with foreign shippers unless they register their vessels under a flag of convenience. The bulk of these registries are with Liberia and Panama. Foreign registry offers the owners substantial savings in terms of relaxed regulations and lower crew and maintenance costs. More importantly, foreign registry entails some very real risks which must be taken into consideration.

Control of our merchant fleet depends on the goodwill of the shipowners, in time of national emergency, to fulfill their duty to carry cargoes to U.S. forces anywhere in the world. Unfortunately, the control of our merchant fleet is also dependent on the considerably less reliable goodwill of the countries in which those ships are registered. If a flag state orders all ships under its registry to boycott U.S. cargoes bound for a war zone and the shipowner orders his captains to then defy the order of the flag state, under international law his ships can be declared stateless and seized. A program of continued subsidies until deregulation can make U.S. shippers more competitive could help convince U.S. shipowners to register more of their vessels in the United States, thereby returning those ships to U.S. control in the event of national emergency.

Another possible solution to this problem could be legislation requiring a minimum amount of import cargo bound for the U.S. to enter in U.S. registered ships. This would impose an important incentive for U.S. shippers to register their vessels in the U.S. We realize, Mr. Chairman, that it is not within the purview of this committee to consider cargo preference legislation, however, we would be remiss if we failed to remind you as members of the Congress that this important concept is a necessary element of any national maritime strategy.

In conclusion, The American Legion firmly believes that, as a nation, we are faced with the vulnerability of a national security entity no less important than that of our strategic triad. The inability to control our merchant fleet would have dire consequences for U.S. armed forces deployed in overseas countries. Accordingly, we firmly urge your support for the necessary construction and operating subsidies, as well as Cargo preference legislation which would serve to revitalize the U.S. Merchant Marine fleet. Over the years our merchant marine has proved itself again and again in times of national emergency. With recent technological advances there may not be time to rebuild our merchant fleet should this nation be faced with a challenge to our national interests. We must revitalize our fleet now. The American Legion has always believed in a viable merchant marine and we continue to believe that it truly is the fourth arm of our national defense.

63rd NATIONAL CONVENTION OF THE AMERICAN LEGION
HELD IN HONOLULU, HAWAII
SEPTEMBER 1-3, 1981

RESOLUTION 385

COMMITTEE: National Security

SUBJECT: MODERNIZE THE U.S. MERCHANT MARINE FLEET

WHEREAS, The American Legion has long been aware of the need to rebuild and modernize the United States privately-owned and operated merchant marine fleet; and

WHEREAS, the 600 U.S. ships cannot be compared with Russia's overwhelming world-leading merchant fleet of 2400 ships that are a threat to the very lifeline of our ever-increasing dependence on the foreign goods; and

WHEREAS, certain matters have come to our attention as being vital to our continued existence as a free nation; and

WHEREAS, it is essential the United States control a strong fleet of cargo vessels in support of U.S. military forces to meet the constant growth in Soviet military capabilities; and

WHEREAS, the Administration has placed strong emphasis on increasing our military might, which should be reflected in increased support for the U.S. merchant marine, the fourth arm of our national defense; now, therefore, be it

RESOLVED, by The American Legion in National Convention assembled in Honolulu, Hawaii, September 1-3, 1981, that we urge the United States Congress to work with maritime labor and management to bring back to life the 1970 Merchant Marine Act for rebuilding the U.S. shipping fleet to a position second to none in the world.

STATEMENT OF HENRY J. VOSS, PRESIDENT, CALIFORNIA FARM BUREAU FEDERATION

The California Farm Bureau Federation (CFBF), representing over 94,000 member families and approximately 85% of the farmers in the state, is very concerned about the possible loss of federal funding for agricultural weather, fire weather, and fruit frost programs provided by the National Weather Service (NWS). All three of these programs must be included in one package due to the multiple function of NWS meteorologists in weather programs for agriculture. We feel that weather information is extremely important to farmers, especially those with frost sensitive crops, and that NWS is best equipped to provide this service at this time. We therefore oppose elimination of federal funding for these programs in this legislative session. Our opposition is due to the fact that the industry currently has no other means of obtaining services similar to those provided by NWS, and that both crop yields and quality will be reduced without this production tool.

We also oppose any reductions in federal funding for these programs for the following reasons: 1) the budget for the fruit frost program, which is of utmost importance to between 1-3 billion dollars worth of California crops, was already reduced by one half in Fiscal Year (FY) 1982 and cannot stand any more reductions; and, 2) the classification system for both personnel and monies involved in agricultural and fire weather programs makes it extremely difficult to determine the actual impact of any reductions on specific programs at this time.

The National Weather Service has a long history of support to agriculture. In fact, it was a part of the U.S. Department of Agriculture from 1890 to 1940. It is ironic that, after fifty years of administration by an agricultural entity, elimination of weather programs for agriculture would be proposed.

What is actually being proposed in the FY 1983 budget? Elimination of a program means "to get rid of, set aside as unimportant, leave out of consideration, or ignore." Since the effects of adverse weather on agriculture and related activities has been estimated by the General Accounting Office (GAO) to cause yield reductions costing the nation as much as $9 billion annually, with direct crop losses alone of $1.6 billion a year, it is hard to believe that any service to curtail these losses is unimportant. While discussing definitions, it should also be mentioned that a reduction means "to lessen in extent, amount, quality, degrade, or bring from a higher to a lower condition." These descripters are exactly what would happen if any reductions were approved at this time. Agriculture may still receive a service, but it may be considerably less effective.

What is agricultural weather information? In California, where an active agricultural weather program is in operation, NWS provides data on elements that characterize the physical environment of the agricultural area. NWS personnel, working closely with cooperative extension offices, has tailored its services to the local production area and many offices provide the following information depending on the time of year and type of crops grown: frost warnings (utilizing numerous weather factors to estimate the degree of potential damage); soil and water temperatures; sunshine and radiation; air motion (wind speed, direction, and duration); dewpoint and humidity; type and direction of rains; evapotranspiration (amount of water loss from soil and plants); and degree hours for pest emergence. Farmers of the majority of crops grown in California use these reports to assist them in frost protection, livestock protection, planting, drying, spraying, harvesting, and irrigating decisions. Related agricultural businesses need accurate weather information for marketing, processing, and other operations, such as aerial application of chemicals. Nationwide, NWS agricultural services may not be as detailed, but a 1979 GAO survey of U.S. farmers and ranchers indicated that 70% of them felt that accurate and reliable weather information can improve their business. The users surveyed by the GAO stated that they found that the general public forecasts were not accurate enough, were difficult to convert into farming decisions, and primarily covered urban areas.

Farmers are not the only group that benefit from good agricultural weather information. The consuming public can obtain higher quality food at a lower cost due to increased agricultural production efficiencies. Both the public health and environment can benefit, also. The NWS has estimated that over 40% less sprays have been applied due to timely agricultural weather information. The fact that county governments in California have provided public funds of approximately

$30,000 to local fruit frost programs indicates that they see a general benefit to all taxpayers.

Are agricultural weather programs cost effective? The fruit frost program, which has been in existence for over 60 years, was rated by the GAO as one of the most cost effective programs in the entire National Weather Service. In an effort to develop user data to determine program efficiency, the NWS Western Regional Headquarters polled growers, grower organizations, land grant universities, and Cooperative Extension offices about the use of weather information to farmers. The response indicated that at least ten percent of the value of frost sensitive crops was attributed to good agricultural weather information and three to five percent of the value of the more general grain crops. This conservatively totals around 400 million dollars worth of benefit at a cost to the western region of less than 1 million dollars, or a benefit 400 times the cost. It has been documented that one accurate forecast in 1978 for the freeze in Tulare County, California, saved 25 million dollars worth of citrus. The forecaster involved cost approximately $35,000, a benefit of over 700 times the cost.

Reduction or elimination of weather programs for agriculture is especially unfortunate at this time since the NWS has been working closely with the USDA over the past few years to develop and enhance expanded weather support to farmers. The GAO has repeatedly suggested that more funding is needed to increase the effectiveness of NWS agricultural programs. The USDA has stated that "improved climatological data forecasts provide tremendous potential for increasing the efficiency of agricultural production and reducing the risks associated with weather." As part of this improvement program, the NWS initiated "Environmental Studies Service Centers," which are now termed "Agricultural Service Centers," with the goal of providing full nationwide agricultural weather coverage. These centers, which are now slated for elimination in the FY 1983 budget, were to serve as coordinating offices for the surrounding areas as follows: Auburn, Alabama (covering Alabama, Florida, Georgia); Stoneville, Mississippi (covering Arkansas, Louisiana, Mississippi, Tennessee); College Station, Texas (covering New Mexico, Oklahoma, Texas); and West Lafayette, Indiana (covering Illinois, Indiana, Kentucky, Michigan, Ohio, southeast Missouri). Offices for Agriculture were also set up in areas of more diverse agricultural production as follows: Yuma, Arizona (northern Arizona); Riverside, California (southern Arizona, California); and Twin Falls, Idaho (working on research with local land grant university).

These seven main agricultural stations are listed to underscore the impact of the budget action on all of the agriculture. The improved agricultural weather programs, or "agricultural advisories," that these stations were designated to coordinate, are in their infancy in many areas. Agricultural advisories were an improvement over the older "agricultural forecasts" and the NWS appeared to be heading in the right direction in their reorganization efforts. If the program is reduced or eliminated, the considerable amount of money and effort that has been invested by the NWS, USDA, and Extension Service over the last few years will have been wasted.

When discussing the impact of NWS agricultural program elimination or reduction, one must also take into consideration other agencies that are cooperating with NWS besides USDA and Cooperative Extension. In California, the University of California and the California Department of Food and Agriculture have been working with NWS to develop a statewide computerized network to provide weather data to growers for both irrigation use and integrated pest management purposes. In an urban, water dependent state, increased agricultural efficiencies in these two areas are critical to all. The cooperating agencies may find themselves left without the main NWS support base in trying to set up this needed program, and they may have also wasted valuable time and money on a project that cannot be completed.

Our main concern is the need to maintain an assured funding source for quality agricultural weather, fire weather, and fruit frost programs. With the history of budget cut proposals for the fruit frost program in particular, local NWS administrators have had difficulties in both recruiting and maintaining high caliber, experienced personnel. This has had a detrimental impact on overall program quality and, without a vote of funding support, this quality may eventually deteriorate to a point that weather programs for agriculture are no longer functional.

We find it especially difficult to consider reduction or elimination of programs at this time since the actual personnel and dollars devoted to agricultural weather, fire weather, and fruit frost programs are not clearly visible. The fruit frost line item of $209,000 is understandable, but underestimated, since additional NWS personnel and money is devoted to fruit frost forecasts by agricultural meteorologists in weather service offices. In discussions with NWS regarding program activities, we have found examples where fire weather personnel also function as fruit frost forecasters for part of the year, and vice versa, which definitely enhances program efficiency but also interlinks budgetary concerns. We have also found examples of meteorologists classified as "agricultural" who either have not worked on agricultural programs for a number of years, or only devote a portion of their time to such functions.

We are especially confused by the Department of Commerce NOAA budget, which states that "agricultural programs will be eliminated" but includes $3.518 million and 45 positions devoted to agriculture after budget cuts and baseline adjustments. A large portion of the remaining money undoubtedly is for the support base that the NWS network of offices provides, but the 45 remaining positions are a mystery. Various NWS and NOAA sources have stated that there will be NO personnel for agricultural weather and that the remaining monies and personnel in the agricultural budget will be utilized in other areas. In the midst of this confusion, we would like to pose the following questions to NWS: What portion of the money and personnel in the NWS budget (before FY 1983 cuts) for agricultural weather have actually been utilzied in providing the designated function? Why can't the remaining personnel and money in the FY 1983 budget be used for agricultural programs if, in fact, a 45 person, 1.1 million dollar cut is a total program elimination?

Farm Bureau, with its general policy of support for the President's 1981 Economic Recovery Program, has looked closely into the possibility of industry funding for weather programs affecting agriculture. We have found that the agriucltural industry currently lacks a workable plan to totally take on the funding responsibility. The State of California may be facing a serious deficit, the private meteorological industry is small and uncoordinated at this time, and there are significant differences among agricultural industry members regarding both the feasibility and actual administration of user funding.

It should be emphasized to both the Department of Commerce and Congress that NWS programs for agriculture in California ALREADY HAVE a large amount of funding participation by the industry. Other specialized or general NWS programs may not have this type of support and should be closely examined. In 1980, at least $50,000 of the NWS fruit frost program was funded from either local agricultural commissioners' offices or industry contributions. This funding was either in providing offices, computer connections, telephone services, or in-kind assistance. In addition, grower volunteers have actively monitored temperature sensing units on their farms or ranches and reported in to the local NWS office on a daily basis. Many of these grower volunteers have participated in this manner for over thirty years. Within the last few months, some growers in areas losing their district fruit frost forecaster (due to FY 1982 reductions), began purchasing remote sensing units to compensate for this loss at an investment of over $30,000. However, this computerized program depends on continued forecasts from personnel in the NWS Riverside Office for Agriculture, which is scheduled for closure. Overall, industry funding of the fruit frost program approached half of the $209,000 federal funding that NWS has allocated in the budget.

This February, CFBF organized a series of meetings with agricultural interests in California to further investigate the possibility of coordinating industry, local, and private funding efforts to enhance weather programs for California agriculture. Although the meeting participants indicated a sincere interest in some type of additional industry support to provide the stable funding needed for quality programs, some serious problems were identified that may restrict expanded industry financial involvement.

Without the NWS support base mentioned earlier, the cost to agriclture for a separate program appears prohibitive. The fruit frost program alone has been estimated to cost at least twice as much if operated separately from NWS, and this does not include the NWS and fire weather offices that also provide fruit frost forecasts by agricultural meteorologists. Also, without continued agricultural data gathering by NWS in district and weather service offices, the data base for private meteorological services would be reduced to a non-effective level. Before any additional user funding of weather programs can be considered, we feel that the agricultural industry must determine how the program can be administered as a public body to provide services to all farmers. The current dissemination of agricultural weather information on public radio, television, and direct phone lines provides the most opportunity for benefit compared to the cost of funding. If user fees were proposed, the problems of how money can be collected in an equitable manner, and how to provide services to each area commensurate to the money collected would also need to be solved.

CFBF has also discussed with NWS the possibility of contracting with it for weather services similar to those currently in operation. This would require both an Office of Management and Budget personnel waiver on the mandated ceiling and approval by the NWS administrators. Although this would definitely be more economical and effective than a separate program, it would not alleviate many of the problems related to expanded industry funding. Additionally, the administrative difficulties encountered by the industry would be felt by the NWS in trying to work under contract, since such an arrangement may result in users demanding a greater voice in decisions on the type of services provided.

Due to the complications of industry funding and the critical need for agricultural weather information, the California Farm Bureau Federation requests that NWS agricultural weather, fire weather, and fruit frost programs remain fully funded for FY 1983. In the coming year, further investigation is necessary on both the actual costs and personnel involved in providing agricultural weather services and possible ways to solve the problems of expanding industry funding.

In conclusion, we would like to reiterate that weather programs affecting agriculture are both essential for growers and the public welfare. These programs should continue to be upgraded and expanded, not eliminated or reduced. Agricultural weather, fire weather, and fruit frost programs should not be viewed as providing a special service benefiting a small segment of the economy. It is imperative that agriculture remain strong and profitable to avoid another reduction in the nation's income generating capability, produce food in abundance to feed the world's hungry, and contribute positively to the U.S. trade balance. Continued full federal funding, utilizing the National Weather Service, appears to be the fairest and most efficient way to provide weather information necessary to agriculture at this time.

SUBCOMMITTEE RECESS

Senator WEICKER. Thank you very much for being here.

The subcommittee will recess until 9:30 on Wednesday morning.

[Whereupon, at 10:55 a.m., Thursday, April 22, the subcommittee was recessed, to reconvene at 9:30 a.m., Wednesday, April 28.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

WEDNESDAY, APRIL 28, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

NONDEPARTMENTAL WITNESSES

LEGAL SERVICES CORPORATION

STATEMENTS OF:

HOWARD PHILLIPS, NATIONAL DIRECTOR, THE CONSERVATIVE CAUCUS, INC.

MAX MILLER, SENIOR ATTORNEY, MOUNTAIN STATES LEGAL FOUNDATION

HOWARD GIANOTTI, APARTMENT OWNER, CONNECTICUT (WOODVIEW ELDERLY HOUSING)

Senator WEICKER. This morning we will continue to receive testimony from our nondepartmental witnesses on various topics under the jurisdiction of the subcommittee. We have several panels of witnesses. Our first and second panels will be discussing the Legal Services Corporation.

The first panel consists of Mr. Howard Phillips, national director of the Conservative Caucus; Mr. Max Miller, senior attorney, Mountain States Legal Foundation; and Howard Gianotti, apartment owner from East Haven, Conn. I welcome all of you this morning and I would like to announce the ground rules.

We have a great number of public witnesses and I want to hear from everybody, but I would appreciate it if oral statements could be limited to 5 minutes. All statements will be included in their entirety in the record. This way everyone will get a chance to express their views. So it is not a matter of convenience of the committee as much as it is a courtesy for each other.

With that, I would appreciate it, then, if the first panel would proceed.

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Senator WEICKER. Mr. Miller? Is Mr. Miller here?

Mr. MILLER. Yes.

Senator WEICKER. And Mr. Gianotti?

Mr. GIANOTTI. Yes.

Senator WEICKER. Why don't we proceed in the order in which I announced the witnesses, Mr. Phillips, Mr. Miller, and Mr. Gianotti.

Mr. PHILLIPS. Senator, good morning. Thank you for the opportunity to appear before your committee. Last year when I appeared before the subcommittee to urge no further funding or authority for the Legal Services Corporation, I questioned the very premises on which the Legal Services Corporation was established as well as the incumbent management of the Corporation and its grantees. At that time, and in the weeks which followed, I directed a number of questions to Senator Weicker, Senator Rudman, and others, which I will now incorporate as part of my testimony, and which I will not read at this time.

These questions which I raised in 1981 have not yet been answered, nor have I received even the courtesy of a reply.

Notwithstanding, for example, serious questions concerning sources of funding for Legal Services Corporation grantees other than the Corporation itself, it would seem that members of this subcommittee, despite their oversight responsibilities, have not yet obtained facts which would indicate the extent of alternative funding granted to the 325 organizations subsidized by this program.

Nevertheless, apparently operating in the dark, this subcommittee has approved, for fiscal year 1982 expenditures of nearly a quarter of a billion dollars.

In this time of economic stagnation caused by massive budget deficits, appropriating money for programs without considering areas of overlap and duplication does not reflect a level of performance which members of the tax-paying citizenry have a right to expect from their elected public servants.

It should be noted that the Legal Services Corporation has not had a freestanding authorization since September 1980, 19 months ago. When will this subcommittee resume adherence to established congressional procedures and not appropriate funds for unauthorized programs?

Last year my criticisms and expressions of concern were directed primarily at the incumbent leadership of the Legal Services Corporation and were intended to encourage Congress to take corrective action to end the fundamental threat to the principles of accountability on which our country was founded, which threat is embodied in the very structure of the Legal Services Corporation.

Now, more than 15 months into the Reagan administration, the incumbent Legal Services President, Mr. Bradley, having left office only 1 month ago, it is President Reagan, his administration's policies and appointees that must be held responsible for the continued existence and misdirection of this massive boondoggle for the legal profession, this taxpayer-subsidized lobby for higher taxes through which a highly politicized legal elite has used the Federal Treasury to circumvent the electoral process and advance its own policy goals in the courts and corridors of power.

Under the U.S. Constitution, our President has the authority to veto legislative measures which appropriate funds to carry forward programs in whose efficacy the President professes to disbelieve. One must question both the insincerity and seriousness of purpose of the Reagan administration as well as the soundness of its strategy when on four separate occasions, October 1, 1981; November 23, 1981; December 15, 1981; and March 31, 1982, President Reagan has refused to exercise his veto of appropriations measures which have continued the Legal Services Corporation and other Federal programs which the President purports to oppose.

I urge the members of this committee to refuse to appropriate any additional funds for the Legal Services Corporation until the following questions have been publicly answered. The oversight obligation of this subcommittee requires thorough examination of the following questions, which I will not read in the interest of time.

One must question either the sincerity or the competence of the Reagan administration when its appointees to the Legal Services Corporation Board, with apparently White House sanction and encouragement, avow that their determination to perpetuate the Legal Services Corporation rather than to eliminate it.

At a time when the American Enterprise Institute has reported that the President's proposed deficits may, over the next 4 years, reach $875 billion, why is Mr. Reagan, by his signature, continuing this program which has, through its constant pressure for more welfare and more social spending, enormously increased the burden on the American taxpayer?

Why has he nominated to the Legal Services Corporation Board persons whose views on the subject at hand are apparently at variance with his own?

One can only conclude that at least with respect to the Legal Services Corporation, the Reagan administration's strategy is, on the one hand, rhetoric intended to ensnare well-meaning conservatives, and, on the other hand, actions intended to appease the greedy establishment elite which so dominates our major law firms, banks, corporations, bureaucracies, and militant special interest groups and which exploits the American taxpayer to feather its own nest in the name of aiding the poor.

Those of us who believe that the American people are being unjustly required to subsidize a nationwide network of attorneys and support personnel with guaranteed annual salaries and congressional sanction to lobby, litigate, propagandize, and organize without the economic constraints under which the private sector must operate are honor bound to observe the responsibility for the Legal Services Corporation's perpetuation is now principally that of President Reagan who has, in fact, acquiesced in the continuation of that which he has, in a word, denounced.

Thank you, Mr. Chairman.

Senator WEICKER. Thank you very much, Mr. Phillips.

STATEMENT OF MAX MILLER

Mr. Miller, senior attorney, Mountain States Legal Foundation.

Mr. MILLER. Thank you, Senator.

Since my full statement is too long to read in 5 minutes, I will read a summary of it.

In June 1981, the foundation, representing five U.S. Senators, one U.S. Congressman, and an Iowa State senator filed an action against the Legal Services Corporation in the U.S. District Court for the District of Iowa. Our plaintiffs sought to demonstrate that the Corporation has organized and funded a mammoth political machine in violation of the Legal Services Corporation Act.

The evidence we amassed in preparation of that lawsuit is, in part, the basis for my testimony. In addition, I draw upon my 2½ years of experience as a managing attorney for the Utah Legal Services Corporation, a recipient group whose funding during my tenure during 1976 through 1978 was approximately $1 million.

Viewing the Corporation from this perspective leads me to conclude, that first, properly run programs can represent the poor as Congress intended; but two, the poor will be continually denied funds for their representation unless the Corporation is restrained from funding partisan political activities.

In support of my first conclusion are my experiences as a legal services lawyer. Our overwhelming workload was handling routine legal problems. The cases we negotiated and litigated had little impact upon anyone other than the clients themselves and had no bearing upon politics. Our office did not take a single appeal in 2½ years. We handled no abortion cases; no desegregation cases; no homosexual cases and no illegal alien cases. Our cases raised no momentous issues but related to factual disputes within settled areas of the law: domestic relations; landlord-tenant; consumer transactions; public benefits and juvenile issues.

The Legal Services Corporation Act is clear that funds should be used in representing the poor in such routine legal matters. The overwhelming evidence, however, is that the Corporation has repeatedly diverted taxpayer funds on political activity in flagrant disregard of the act's prohibitions.

As presently drafted, the act does not provide a means for enforcing these restrictions but, instead, makes the Corporation the sole judge of its own wrongdoing.

If Congress desires to insure that funds are used properly, it must amend the act to establish for the first time a means of outside, impartial, and practical enforcement of the restrictions against political activity. The Congress must authorize aggrieved persons to sue in Federal Court for failure to abide by the act's prohibitions. That is the subject of my testimony and the position of the Mountain States Legal Foundation, on whose behalf I appear. In preparing our cases against legal services, we accumulated irrefutable evidence that a substantial portion of the Corporation's funds is committed to political goals. Much of the evidence is detailed in my written statement, and in the interest of time, I will not here repeat it, but I can outline our complaint.

First, we complained that the Corporation has sponsored and has directly undertaken unlawful activities.

Second, we complained that the Corporation has undertaken unlawful grassroots lobbying, the distinction between that, the former and the second complaint, is in the former complaint the recipients had themselves lobbied and in the second case, the Corporation had urged others to lobby.

Third, we complained that the Corporation and its recipients had conducted training programs to teach legal services lawyers how to lobby effectively and how to organize and wield political clout.

We complained that the Corporation and its recipients formed political associations and coalitions with political groups. In the face of our evidence, the defendants filed a motion to dismiss, in effect stating that a court is powerless to stop the Corporation from spending taxpayer dollars on political activity. The Corporation argued in its brief, "Judicial endorsement actions to compliance with the act are not presently authorized."

The order dismissing our complaint simply held that "Congress, in enacting the Legal Services Corporation Act, did not intend to create an implied cause of action." If Congress wants an effective restraint against the Corporation and its recipients from using taxpayer dollars to engage in politics, the act must be amended in some form to state that an aggrieved person may bring an action against the Corporation in the U.S. District Court.

Such a statute must provide for declaratory and injunctive relief but could also include a reasonable attorney's fee to be awared prevailing plaintiffs in the sound judgment of the court.

The advantages of this program are obvious. The Corporation would no longer act as the judge of its own wrongdoing. The Congress will no longer have to weight the daily excesses of the Corporation in making annual funding decisions, and most important, the poor will no longer have funds intended for their legal representation wasted on furthering the personal political objectives of the Corporation's leadership.

Thank you.

Senator WEICKER. Am I correct in making the assumption that as compared to the outright abolition of the Corporation that was advocated by Mr. Phillips, you are advocating, amending the act?

Mr. MILLER. I am not advocating the outright abolition. The Corporation doesn't take a position on that. My testimony is for the sole purpose of recommending an amendment to the act.

Senator WEICKER. In your formal statement, you say "We handled no abortion cases, no desegreation cases, no homosexual cases, no illegal alien cases. Our cases raised no momentous issues but turned upon factual disputes within settled areas of the law: domestic relations, landlord-tenant, consumer transactions, public benefits, and juvenile issues."

Isn't that what legal services is supposed to do? I don't understand.

Mr. MILLER. That is my point. My program, I am saying, handled the cases and represented the poor as Congress intended. I was attempting to contrast between what I thought was a properly run program and the political activities of the Corporation.

Senator WEICKER. So your complaint is the political aspects of the Corporation?

Mr. MILLER. Yes; that is right.

Senator WEICKER. Thank you very much.

Mr. Howard Gianotti?

STATEMENT OF HOWARD GIANOTTI

Mr. GIANOTTI. Thank you, Mr. Chairman. Thank you for letting me be here.

I am a little bit nervous. We are out there building buildings rather than talking about politics. My attorneys and my wife and the president of the association members are here, which came down to speak about this matter. We are all directly affected by it.

I have never been involved actively in politics in any nature. Basically I have been involved in developing projects, multifamily projects for about 25 years with HUD funding. During that period of time, we were fortunate in developing a project which received accolades from the Federal Government. One of the projects was shown in a journal as a method of industrialized housing to the Government in 1972, which was the operation breakthrough method.

Recently, my partner and I developed a project called Woodview in East Haven which received letters of commendation from Ed Martin, who was regional administrator, and it was posted outside the Washington office.

We sort of take pride in the work we do. We just sort of like doing good things. It is a feeling, we like to do good things. Sitting in my office one day at about 5:30, I was having a little bit of a chat. Without warning, Ed Modano calls up from the Register and says, "You have a prison camp." I said, "I have a prison camp?" He said, "You have a prison camp."

Legal aid has sued us, sued us and reported to the paper rather than telling us that we were being sued for $1.2 million and we were running a prison camp. I called Bob and said, "Did you ever get a writ on this?" He said, "No. I never got a writ on this."

The next morning the paper said I was running a prison camp. My wife is crying, my daughter is crying. Two days later they filed a class action. They filed a class action, and I talked to Mr. Behler, who is present here, the president, Thomas Boylan and Frank Boylan set up a meeting with the tenant association which governs about 95 percent of the people. They work with about 95 percent of the people in the building.

We invited the representatives from legal services to come down and speak before the people, all the people assembled in the lower lobbies, and because it was a class action involved, we said we would like to have a floor vote from the people in the building as to their feelings about it.

The people voted 97 percent for management and about two or three tenants voted for the legal services cause, so legal services dropped the class action, but these three or four tenants still proceeded to follow forth still with legal services, so we tried settling this through the courts, and they gave us ridiculous demands like $165,000. We couldn't meet those demands. Meanwhile, we had expended about $50,000 to defend ourselves. Meanwhile, legal services, through these three or four tenants, was distributing literature on Government paper from 8 o'clock in the mornings until 4 o'clock in the mornings. We had to put guards on duty.

Finally we traced it down. They tried to set up a separate tenant organization outside the building. The tenants didn't particularly care for that. There was a great deal of harassment going on there. We made an effort to certainly administrate this through channels and see if we could resolve this matter.

As of last Friday, we were still stating we didn't want to come here because we wanted to resolve it. We couldn't seek any resolution of it so we are here.

I am only here for one purpose. That is, because there must be others like myself. Who cannot afford $150,000 in legal fees to defend their premises against legal services? I do believe that legal services does perform a function. There are certain hard, life-threatening cases that legal services must take care of. There are people that have very little money and do need help, but somewhere along the line there must be other people like myself, where we can go to some board or have some negotiation stance and ask for the accountability of an action like this.

If they had come to us initially and said, "Look, Mr. Gianotti, you are running a prison camp, and we would like to sit down and negotiate the problems with you," we would be more than happy to sit down with them and discuss it. Not only that, but they got ahold of channel 3 in Hartford. I was told one day to watch the television. He said, "Well, Mr. Gianotti and his management association are goons. The tenants are puppets." I don't appreciate being called a prison camp and being called a goon or a puppet.

I don't feel the tenants or my partner or my wife feels that is appropriate, it is not something we should be subject to. There must be some way when we get in a position like this—in every organization, I don't care how good, there is certain cancer in every organization. I think here is a little bit of cancer. The cancer lies in the fact that if people like ourselves that are caught in a trap can't speak to anybody except coming publicly and making our feelings known, that is what we must do, but I'm not here to settle the case or argue the case or the merits of the case. That belongs in the courtroom, but I do feel there must be other developers and from conversations I have gathered since I got into legal services, that there are other developers and people with this kind of a problem.

I don't know how to resolve it. I am just here to say if you can help people like us that are out there, it would be most appreciated.

Senator WEICKER. Is the status of the situation in court right now?

Mr. GIANOTTI. Yes; it is, sir.

Senator WEICKER. It is in court?

Mr. Gianotti. Yes; it is, sir.

Senator Weicker. I am just trying to find out where we sit on this matter. The matter is in court?

Mr. Gianotti. Yes, sir.

Senator Weicker. I gather your main complaint is those activities that go beyond courtroom activity which, in effect, asperse your name in a nonprofessional way, I will put it that way.

Mr. Gianotti. That is correct, sir. I have never been arrested. After 25 or 30 years, you get a front page line saying we are running a prison camp. That is not exactly a thing you like to read about yourself in a newspaper; also being called goons over a TV camera, when I have never been a goon.

Senator Weicker. Is this something that was laid at your doorstep by members of legal services?

Mr. Gianotti. Legal services laid; Robert Solomon and D'Amato took and gave the newspapers the literature. I saw it or Mr. Evans or Roy Jones saw it. The next thing I know, D'Amato said, "You are being called a prison camp. You are being sued for $1.2 million."

If you think that wasn't a shocker, it was.

Senator Weicker. Have your attorneys had an opportunity to discuss this with the Legal Services Board?

Mr. Gianotti. They have tried to discuss it with the Legal Services Board. One counselor and one Senator from our State have tried to discuss this matter to resolve it. They said, "Hey, one of the responsibilities of Robert Solomon"—and I was in the conversation—he said, "Look, we took the Landlord State Tenant Association. We go to Federal Court. If the tenants get resolved $1, we collect at legal services. That is why we are in Federal Court."

I don't think that is fair.

I mean, I'm not saying legal services doesn't perform a proper function. There are a lot of poor people that need help.

Senator Weicker. I think you have made your point. I can't get into the legal aspects of this.

Mr. Gianotti. No, sir, no, sir, I just feel, basically, that I am talking from an individual's viewpoint. I don't have any political motivation here or nothing else, just survival.

Senator Weicker. Everything doesn't work perfectly. I'm not so sure, again, it is 100 percent bad according to my friend, Howard Phillips, but neither am I standing here and saying there aren't things that go wrong. There are things that go wrong. Quite frankly, you have every right to come up here and voice your opinions as to matters pressed upon you. This isn't a matter that is out there just as a matter of general interest. Obviously, it has affected you in a personal sense. I'm glad you are here.

Mr. Gianotti. It is also my wife and family and daughter. We sort of take pride in our reputation. It doesn't feel very comfortable to swing on that limb. The fact is I am trying to find an excuse. Yesterday I had an extraction for an abcessed tooth. I thought, "Maybe that is a reason why I can't get down here." I am still here. I am motivated. My wife said, "Are you a coward?"

Senator WEICKER. I'm glad you came down. Don't worry about swinging out there on that limb. I have swung out there enough myself, so I know what it is like.

Thank you very much for your testimony.

Mr. GIANOTTI. Thank you.

PREPARED STATEMENTS

Senator WEICKER. Thank you. We will place all of your statements in the record.

[The statements follow:]

Statement of Howard Phillips

Mr. Chairman:

Last year when I appeared before this subcommittee to urge no further funding and authority for the Legal Services Corporation, I questioned the very premises on which the Legal Services Corporation was established as well as the incumbent management of the Corporation and its grantees.

At that time, and in the weeks which followed, I directed a number of questions to Senator Weicker, Senator Rudman, and others, which I now incorporate as part of my testimony.

September 24, 1981

Hon. Lowell Weicker
United States Senator
313 Russell Building
Washington, D.C. 20510

Dear Lowell:

It was good to see you yesterday at the Mike Wallace taping. I know you were anxious to catch the 5:00 shuttle, and for that reason, forgot to take the two books which I presented to you, in all sincerity, with the hope that they would better explain our position on the Constitutional questions which you have raised.

On another matter, I am enclosing a follow-up copy of a letter which I sent to you earlier this year, concerning problems with the Legal Services Corporation. If you are able to respond, I would appreciate it.

With personal best wishes, I am

Sincerely,

Howard Phillips
National Director

May 1, 1981

Hon. Lowell P. Weicker, Jr.
Chairman
Appropriations Subcommittee on State,
  Commerce, Justice and Judiciary
U.S. Senate
146 A The Capitol
Washington, D.C. 20510

Dear Senator Weicker:

On April 22, 1981, Dan Bradley, President of the Legal Services Corporation, in answer to a question concerning class action suits engaged in by Corporation-funded grantees, stated that less than two-tenths of one percent of all LSC cases were class actions. This "statistic" was not challenged.

As part of your oversight responsibilities, I think it is important for you to determine what percentage of LSC attorney time and what portion of the budget of each of the more than 320 LSC grantees is spent on class action suits?

As a private citizen, I do not have the resources to provide an answer to that question. The Subcommittee, however, can and should obtain this information for each grantee before any further funds are appropriated for the Corporation, provided there is an authorization in law against which the Committee may appropriate funds.

Based on the three following examples, I believe that a true accounting of time and money spent on class action suits by Corporation grantees is substantially more than suggested by Mr. Bradley.

1. The Orlando (Florida) Sentinel Star of January 27, 1981 reports that the Greater Orlando Area Legal Services (GOALS), which received $527,885 last year, had "only two class action suits out of more than 4000 cases. But the financial and manpower costs of those two class action suits ...are far greater than those of the individual cases." (clipping attached).

Apparently more than half of the $527,885 grant is being used for just two class actions.

2. In testimony in April, 1981, before the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, the county attorney of Orange County, New York, who defended the county against a class action suit brought by the Mid-Hudson Legal Services, Inc. ($581,929 in LSC funds last year) stated that Mid-Hudson spent at least 215 man days of time on that suit. This is the equivalent of more than a year of time of one person .

The Chairman of the Board of Mid-Hudson testified at the same hearing that Mid-Hudson employs only 10 lawyers. Obviously a large amount of time was spent on this one case. No one will know how many poor people with individual problems could not be assisted because of this one class action.

3. And now comes the granddaddy of all the Legal Services Corporation-funded class actions. According to Adrian Lee, Columnist of the Philadelphia Bulletin, in two columns which appeared on March 15, and 16, 1981 (attached), the Community Legal Services, Inc. (CLS of Philadelphia) ($2,277,972 in LSC funds last year) is claiming $4.5 million in legal fees for what in Philadelphia is popularly known as the Whitman Park suit involving 120 units of low income housing.

My organization has been informed by an attorney who was involved in the litigation of this case that this Whitman Park case was a class action.

The claim for $4.5 million in fees in this case indicates that at their current annual rate of funding, CLS spent 100% of their resources on this one suit for the equivalent of lmost two years!

Stated another way: If the claim for $4-5 million were costed out at the rate of $100 per hour. it would mean that CLS spent 45,000 hours on this one case. This would be 45,000 hours of assistance that could have been spent solving individual legal problems of poor people. Since Legal Services attorneys are not paid at the rate of $100 per hour, it is possible that many more than 45,000 hours were spent on this case and away from individuals' problems.

Based on these three examples, I believe the Subcommittee ought to obtain from the LSC, and fully review, an accounting of the amount of time and money expended by each LSC grantee on class actions. This information should be made part of the hearing record, so that everyone may revoew it.

Any action to appropriate funds without this information will be a signal that the Committee does not really care how LSC and its grantees use the taxpayer's money.

I respectfully request that this letter and attachments be made part of the hearing record.

Sincerely,

Howard Phillips
National Director
The Conservative Caucus, Inc.

September 24, 1981

Hon. Warren Rudman
United States Senator
3313 Dirksen Building
Washington, D.C. 20510

Dear Warren:

Enclosed are copies of letters which I sent to you earlier this year which have not yet been answered.

I would appreciate your response.

With personal best wishes, I am

Sincerely,

Howard Phillips
National Director

May 1, 1981

Hon. Warren Rudman
U.S. Senator
3313 Dirksen Building
Washington, D.C. 20510

Dear Senator Rudman:

Enclosed please find a letter I have sent to Senator Lowell Weicker. As a member of the Appropriations Subcommittee on State, Commerce, Justice, and the Judiciary, I would appreciate it if you would request Senator Weicker to obtain for the Subcommittee, prior to any mark-up of the FY1982 appropriation bill, the information concerning class action suits that I have suggested.

Your request concerning this matter will be greatly appreciated.

With personal best wishes, I am

Sincerely,

Howard Phillips
National Director

April 22, 1981

Hon. Warren Rudman
United States Senator
3313 Dirksen Building
Washington, D. C. 20510

Dear Warren:

The enclosed Guild Notes, published by the National Lawyers Guild, demonstrates further the close association between the National Lawyers Guild and the Legal Services Corporation.

I call your particular attention to the advertisements for Legal Services staff attorney positions on page 19 of the publication.

With personal best wishes, I am

Sincerely,

Howard Phillips
National Director

April 22, 1981

Hon. Warren Rudman
United States Senator
3313 Dirksen Building
Washington, D. C. 20510

Dear Warren:

Thank you once again for giving me the opportunity to testify concerning Legal Services before your subcommittee.

I particularly appreciate your willingness and that of Senator Weicker to enter into the record the transcript of the Legislative Advocacy seminar held in San Juan, Puerto Rico just after the election.

I also appreciate your agreeing to include for the record the freedom of information request filed by The Conservative Caucus Research, Analysis, & Education Foundation, together with the reply received from the Legal Services Corporation. Your intention to directly pursue the same information encourages me greatly.

It will be a pleasure for me to take a fair look at the information which you develop, and work with you in trying to come to a responsible solution to this very significant public policy debate.

With your indulgence, I will, from time to time, send you information which comes to my attention concerning the Legal Services program. For starters, I hope you will take a look at the enclosed correspondence concerning the relationship between the Legal Services Corporation and the pro-PLO National Lawyers Guild.

As you will note, the then leadership of the Legal Services Corporation, personified by Thomas Ehrlich, and Senator Harrison Williams of New Jersey, who chaired the authorizing committee, were singularly unresponsive to the questions which I raised.

Perhaps Senator Weicker and you will have greater success on this score.

Please call me whenever I may be of assistance.

With personal best wishes, I am

Sincerely,

Howard Phillips
National Director

September 29, 1977

Hon. Harrison A. Williams
Chairman, Committee on Human Resources
United States Senate
352 Russell Building
Washington, D.C. 20510

Dear Senator Williams:

It has come to my attention that the National Lawyers Guild voted at a 1975 National Executive Board meeting to "provide legal support and resources" in aid to the cause of the Palestine Liberation Organization.

On August 1, 1977, a ten-member delegation of the National Lawyers Guild, which had spent three weeks in the Middle East, held a press conference charging that Israel practiced "institutional racism," routine torture, and "political repression enforced by military courts" against Arabs living in Israel and the West Bank. Two weeks later, the terrorist Palestine Liberation Organization sent one of its U.N. representatives to the National Lawyers Guild national convention in Seattle where the following resolution was submitted by one Jeff Goldstein of Denver:

> "WHEREAS, the Palestinian people were driven from their homeland by the Zionist Regime of Israel and the forces of imperialism; and
>
> WHEREAS, Zionism is a racist ideology used by the Israeli ruling class and government and imperialism to oppress the masses of Palestinian and non-Palestinian peoples, to divide them and cover up the real enemy of the people of the Middle East; and
>
> WHEREAS, the Palestinian Liberation Organizatio (PLO) is the legitimate and recognized representative of the Palestinian people; and
>
> WHEREAS, the National Lawyers Guild has previously gone on record in support of the struggles of the people of the Third World against imperialism and its agents.
>
> NOW THEREFORE BE IT RESOLVED:
>
> 1. That the National Lawyers Guild hereby goes on record in support of the strugg of the Palestinian people to recover their homeland and national rights; opposes Zionism as a reactionary ideology promoted by the Israeli Ruling Class and government and imperialism; recognizes the PLO as the legitimate representative of the Palestinian people.
> 2. That the National Lawyers Guild conduct educational forums in its various chapters on the struggle of the Palestinian people.

3. That the International Committee arrange for a representative of the Palestinian Liberation Organization to address the membership of the Guild at a National Meeting in the near future concerning the struggle of the Palestinian people.

4. That the National Lawyers Guild arrange and sponsor a nationwide speaking tour by a representative of the PLO.

5. That the National Lawyers Guild send a letter of solidarity to the PLO embodying the substance of this resolution."

The Federal Legal Services program operates through 315 privately-controlled non-profit organizations, which are recipients of funds from the Corporation.

I am deeply concerned that some employees of the Legal Services Corporation and officials of individual legal services program grantees, are active in the National Lawyers Guild, and that the resources of the Legal Services program which are provided by the American taxpayer, are being used to further the objectives of the National Lawyers Guild, which is so completely out of step with the principles on which our country was founded, and with the thinking of the American people.

Indeed, it is a fact that some grantees of the Legal Services Corporation, which has been under the jurisdiction of your committee, assign seats on their boards, to be filled at the discretion of the National Lawyers Guild.

I am calling upon you to initiate public hearings to investigate the connection between the Federal Legal Services program and the radical National Lawyers Guild.

I will appreciate your prompt attention to this inquiry.

With best wishes, I am

Sincerely,

Howard Phillips

December 7, 1977

Mr. Howard Phillips
The Conservative Caucus,
  Incorporated
National Headquarters
7777 Leesburg Pike
Falls Church, Virginia 22043

Dear Mr. Phillips:

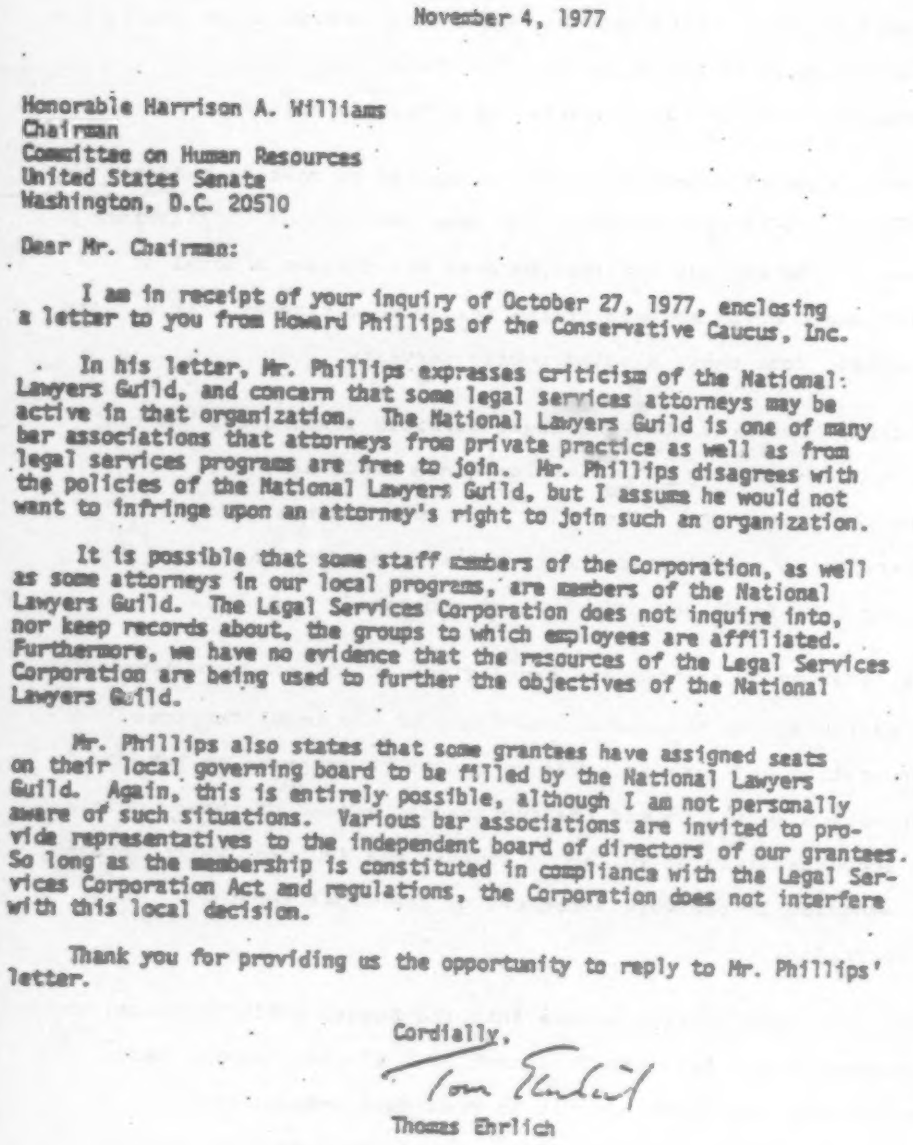
Enclosed is a letter I received from Thomas Ehrlich, President of the Legal Services Corporation, in response to your concern about the possible membership of legal services attorneys in the National Lawyers Guild.

I trust this letter addresses your concern.

With best wishes,

Sincerely,

Harrison A. Williams, Jr.
Chairman



November 4, 1977

Honorable Harrison A. Williams
Chairman
Committee on Human Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am in receipt of your inquiry of October 27, 1977, enclosing a letter to you from Howard Phillips of the Conservative Caucus, Inc.

In his letter, Mr. Phillips expresses criticism of the National Lawyers Guild, and concern that some legal services attorneys may be active in that organization. The National Lawyers Guild is one of many bar associations that attorneys from private practice as well as from legal services programs are free to join. Mr. Phillips disagrees with the policies of the National Lawyers Guild, but I assume he would not want to infringe upon an attorney's right to join such an organization.

It is possible that some staff members of the Corporation, as well as some attorneys in our local programs, are members of the National Lawyers Guild. The Legal Services Corporation does not inquire into, nor keep records about, the groups to which employees are affiliated. Furthermore, we have no evidence that the resources of the Legal Services Corporation are being used to further the objectives of the National Lawyers Guild.

Mr. Phillips also states that some grantees have assigned seats on their local governing board to be filled by the National Lawyers Guild. Again, this is entirely possible, although I am not personally aware of such situations. Various bar associations are invited to provide representatives to the independent board of directors of our grantees. So long as the membership is constituted in compliance with the Legal Services Corporation Act and regulations, the Corporation does not interfere with this local decision.

Thank you for providing us the opportunity to reply to Mr. Phillips' letter.

Cordially,

Tom Ehrlich

Thomas Ehrlich

These questions which I raised in 1981 have not yet been answered. Nor have I received even the courtesy of a reply.

Notwithstanding, for example, serious questions concerning sources of funding for Legal Services Corporation grantees other than the Corporation itself, it would seem that members of this subcommittee, despite their oversight responsibilities, have not yet obtained facts which would indicate the extent of alternative funding granted to the 325 organizations subsidized by this program. Nevertheless, apparently operating in the dark, this subcommittee has approved, for Fiscal Year 1982, expenditures of nearly a quarter of a billion dollars.

In this time of economic stagnation caused by massive budget deficits, appropriating money for programs without considering areas of overlap and duplication does not reflect a level of performance which members of the taxpaying citizenry have a right to expect from their elected public servants.

It should be noted that the Legal Services Corporation has not had a free-standing authorization since September, 1980 -- nineteen months ago. When will this subcommittee resume adherence to established Congressional procedures and not appropriate funds for unauthorized programs?

Last year my criticisms and expressions of concern were directed primarily at the incumbent leadership of the Legal Services Corporation and were intended to encourage Congress to take corrective action to end the fundamental threat to the principles of accountability on which our country was founded, which threat is embodied in the very structure of the Legal Services Corporation.

Now, more than fifteen months into the Reagan Administration, the incumbent Legal Services President, Mr. Bradley, having left office only one month ago, it is President Reagan, his Administration's policies and appointees that must be held responsible for the continued existence and misdirection of this massive boondoggle for the legal profession, this taxpayer-subsidized lobby for higher taxes, through which a highly politicized legal elite has used the Federal treasury to circumvent the electoral process, and advance its own policy goals in the courts and corridors of power.

Under the U.S. Constitution, our President has the authority to veto legislative measures which appropriate funds to carry forward programs in whose efficacy the President professes to disbelieve.

One must question both the sincerity and the seriousness of purpose of the Reagan Administration, as well as the soundness of its strategy, when on four separate occasions---October 1, 1981---November 23, 1981---December 15, 1981---and March 31, 1982---President Reagan has refused to exercise his veto of appropriations measures which have continued the Legal Services Corporation and other Federal programs which the President purports to oppose.

I urge the members of this committee to refuse to appropriate any additional funds for the Legal Services Corporation until the following questions have been publicly answered. The oversight obligation of this subcommittee requires thorough examination of the following questions:

1. What is the amount of carry over funds now available to each Legal Services Corporation grantee from Fiscal year 1980 and Fiscal year 1981 and what is the total amount that each grantee has available from all previous grants?
2. How has interest from such unexpended balances been used?
3. Does this Committee know the amount and value of the real estate owned by the 325 LSC grantee corporations?
4. What has been the disposition of income from all fees, including those relating to court appointments, the Equal Access to Justice Act, and the Civil Rights Attorney Fees Recovery Act? Are these fees which have been recovered included in grantee carry over balances or are these fees maintained in separate accounts? If so, what is done with these fees?
5. How much has each grantee derived from contracts or grants from other Federal sources including, but not limited to, the

Administration on Aging, Title XIX and Title XX of the Social Security Act, General Revenue Sharing, the Community Development Block Grant program, ACTION, and the Office of Community Services?

6. How much time has each grantee spent on class action suits and other litigation that might yield fee recovery? This information should be expressed in total numbers of hours and as a percentage of the entire number of hours of legal services provided by each grantee. (At the rate of $100 per hour, is there justification for the claim of Community Legal Services of Philadelphia that they spent 45,000 hours working on just one case known as the Whitman Park case?)

7. Will this Committee reveal to the taxpaying public how much of the money appropriated for legal assistance goes to pay grantee corporation dues, fees, and contributions to outside organizations, such as the National Lawyers Guild, the American Bar Association, the American Civil Liberties Union, the Project Advisory Group, and the National Legal Aid and Defender Association?

8. What are the actual overhead costs of each grantee and delegate agency or subgrantee, including specific dollar amounts assigned to direct and indirect lobbying?

9. To what extent has the availability of fee recoveries at a rate in excess of costs to the program caused a proliferation of such litigation and to what extent has this diminished the time spent by the grantees or individual legal assistance for individual disadvantaged persons?

One must question either the sincerity or the competence of the Reagan Administration when its appointees to the Legal Services Corporation Board, with apparent White House sanction and encouragement, avow their determination to perpetuate the Legal Services Corporation, rather than to eliminate it.

At a time when the American Enterprise Institute has reported that the President's proposed deficits may, over the next four years, reach $875 billions of dollars, why is Mr. Reagan, by his signature, continuing this program which has, through its constant pressure for more welfare and more social spending, enormously increased the burden on the American taxpayer.

What has he nominated to the Legal Services Corporation board persons whose views on the subject at hand are apparently at variance with his own?

One can only conclude that, at least with respect to the Legal Services Corporation, the Reagan Administration's strategy is, on the one hand, rhetoric intended to ensnare well-meaning conservatives, and, on the other hand, actions intended to appease the greedy establishment elite which so dominates our major law firms, banks, corporations, bureaucracies, and militant special interest groups---and which exploits the working American taxpayer to feather its own nest in the name of aiding the poor.

Those of us who believe that the American people are being unjustly required to subsidize a nationwide network of attorneys and support personnel with guaranteed annual salaries and Congressional sanction to lobby, litigate, propagandize, and to organize without the economic constraints under which the private sector must operate are honor bound to observe that responsibility for the Legal Services Corporation's perpetuation is now principally that of President Reagan, who has, in fact, acquiesced in the continuation of that which he, in word, denounced.

STATEMENT OF MAXWELL A. MILLER

The Legal Services Corporation Act (the Act) declares that the purpose in establishing Legal Services Corporation (the Corporation) is to provide "financial support for legal assistance in non-criminal proceedings or matters to persons financially unable to afford legal assistance."[1] The Corporation was thus given the relatively simple task of acting as a conduit for taxpayer funds with the secondary, though more complicated, job of ensuring that recipient organizations spend the money in "providing access to the system of justice"[2] for the nation's poor.

To achieve these overall objectives, Congress enacted strict limitations against the Corporation's misuse of taxpayer funds. The Act is clear that funds should be used in representing the poor in routine legal matters, not in lobbying the legislatures or in financing political movements. The overwhelming evidence, however, is that the Corporation has repeatedly diverted taxpayer funds on political activity in flagrant disregard of the Act's prohibitions.

As presently drafted, the Act does not provide a means for enforcing these restrictions, but instead makes the Corporation the sole judge of its own wrongdoing. If Congress desires to ensure that funds are used to represent the poor, it must amend the Act to establish for the first time a means of outside, impartial and practical enforcement of the restrictions against political activity. The Congress must authorize aggrieved persons to sue the Corporation in federal court for failure to abide by the Act's prohibitions. That is the subject of my testimony and the position of the Mountain States Legal Foundation on whose behalf I appear.

Mountain States Legal Foundation (the Foundation) is a nonprofit, public interest law firm supported entirely by membership donations. The Foundation is dedicated to the primary purpose of bringing before the courts those issues vital to the preservation of individual liberties and the free enterprise system.

In June of 1981, the Foundation, representing five United States Senators, one United States Congressman, and an Iowa State Senator filed an action against Legal Services Corporation in the United States District Court for the District of Iowa. Our plaintiffs sought to demonstrate that the Corporation has organized and funded a mammoth political machine in violation of the Act. The evidence we amassed in preparation of that lawsuit is, in part, the basis for my testimony. In addition, I draw upon my two and one-half (2½) years experience as a managing attorney for Utah Legal Services Corporation - a recipient group whose funding during my tenure, 1976 through 1978, was approximately one (1) million dollars.

Viewing the Corporation from this unique perspective leads me to conclude: (1) that properly run programs can represent the poor as Congress intended; but, (2) the poor will be continually denied funds intended for their representation, unless the Corporation is effectively restrained from funding partisan political activities.

In support of my first conclusion are my experiences as a legal services lawyer. Utah Legal Services opened its Utah County office in 1976. Our overwhelming workload was handling routine legal problems. The cases we negotiated and litigated had little impact upon anyone other than the clients themselves. Our office did not take a single appeal in two and one-half (2½) years. We handled no abortion cases, no desegregation cases, no homosexual cases, and no illegal alien cases. Our cases raised no momentous issues but turned upon factual disputes within settled areas of the law: domestic relations, landlord-tenant, consumer transactions, public benefits, and juvenile issues.

I found in discussing the case load of my office with colleagues and peers that our situation was not entirely atypical. Yet, the routine workload legal services programs undertake is overshadowed by the Corporation's failure to confine its activities to such cases. Here are several examples of what the everyday case load of a legal services lawyer should be:

Case number one. In 1977, "Mrs. Jones" and her two children moved into a rather dilapidated house in Pleasant Grove, Utah. No one had informed her that the prior tenant had failed to pay not only his rent but also his water bill. The city, therefore, refused to turn on Mrs. Jones' water. She was thus obligated to make a one-half (½) mile journey three times a day to the nearest gas station for a bucket of water. The city refused to turn on her water despite our insistence, so we went to court and were successful in obtaining a temporary restraining order and permanent injunction against the city.

Case number two. In 1976, "John" was an employee of a large local department store. John was fired from his job for "insubordination" and a "bad attitude" according to his employer. Because John had been terminated for cause, rather than simply laid off, he was, under Utah, law ineligible to receive unemployment compensation. John's story was that he had been the scapegoat for his supervisor's conduct. Again we tried to negotiate, and again our negotiations failed. We demanded a hearing before an administrative law judge and were able to show that John had been victimized. His unemployment compensation was accordingly reinstated.

While I have deliberately selected cases in which my clients were innocent victims, it would be misleading to claim that all our cases raised such one sided situations. My point is, however, that these cases are not unusual and are the type of case Congress intended legal services programs to handle.

Unfortunately, the foregoing examples of a properly run program are in sharp contrast with the activities of the Legal Services Corporation. In some respects, the Corporation is a schizophrenic organization. Many program lawyers take the position that legal aid should be service oriented to the individual client. Another group, often including Corporation officials, argues that the function of Legal Services Corporation is to redistribute the wealth and, in order to meet that objective, legal services lawyers should be flooding the legislatures with propaganda, organizing political demonstrations, and filing impact litigation, with service to the individual client as a mere afterthought.[3]

In preparing the case against Legal Services Corporation, we accumulated irrefutable evidence that a substantial portion of the Corporation's funds is utilized for political goals. For example, in November of 1980, the National Legal Aid and Defender Association (NLADA) sponsored a seminar on "legislative advocacy" in San Juan, Puerto Rico. Comments made at the seminar establish the fact that the Corporation has, for years, been involved in lobbying and political activities, even to the extent that elaborate systems have been developed to influence members of Congress and state legislators. A lobbyist for the Corporation - Allied Food Research and Action Center went unchallenged when she stated:

> What all of us ultimately care about - what every single support center cares about - ultimately, is meaningful welfare reform, and in meaningful redistribution of wealth and income in this country. Well, getting from here to there is easier said than done. It so happens that there's not a majority in this country, or in Congress, for doing that right now, and, what Congress has responded to us is not giving low income people dignity that comes with meaningful cash assistance - what they've responded to is these individual needs. We'll hand them some food stamps - we'll give them a section 8 certificate - which all of us get frustrated about sometimes, because that's not really doing anything to eliminate poverty or change the conditions of poverty, in any event, you have Congress responding to individual needs. They're not responding to a poor people's platform - they're responding to individual needs. And, whether I like it or not, because of my own personal political and social views, I know that on the food issue I get the most mileage out of doing a bleeding heart, kind of churchy, feed-the-poor kind of thing.[4]

With equally compelling evidence, the Foundation filed its complaint against the Corporation asking the federal court of Iowa to declare that the Corporation had engaged in unlawful political activity and to enjoin it from further violating the law. Our complaint against the Corporation was divided into four claims.

First, we complained that the Corporation has sponsored and has directly undertaken unlawful lobbying activities. The Act flatly prohibits Corporation recipients from directly or indirectly attempting "to influence the issuance, amendment, or revocation" of executive or administrative orders or "to undertake to influence the passage or defeat" of legislation before Congress or state legislatures.[5] The three exceptions are: (1) when recipients are asked to testify before Congress or a legislative body; (2) when recipients lobby on behalf of a particular client; and, (3) when recipients lobby on matters directly affecting the Corporation or the recipient.

The Corporation itself is likewise precluded from lobbying. The Act provides that the Corporation "[M]ay testify or make other appropriate communication (a) when formally requested to do so by a legislative body, a committee, or a member thereof, or (b) in connection with legislation or appropriations directly affecting the activities of the Corporation."[6]

The evidence demonstrates that the Corporation and many of its recipients have virtually ignored those restrictions.

Corporation lobbying takes a wide variety of forms, depending upon the priorities and methods used by the support centers and state programs. In at least some cases, the support centers poll everyone on a mailing list, apparently without regard to client eligibility, to determine what substantive issues should be pushed in Congress.[7]

In 1980, the Corporation launched a massive lobbying effort to secure its reauthorization and to defeat any cutbacks in social programs. In a memorandum to all state coordinators and other interested parties, Alan Houseman, former Research Director for the Corporation, summarized the Corporation's "Overall Activities, Strategy and Perspective."[8] With respect to lobbying, Houseman stated that "effective lobbying in Washington will require local programs to establish credibility and a base in their communities and to develop allies who can and will assist them in persuading their Congressman [sic] and Senators to support legal services."[9] He further advised that "we will be increasing the Washington lobbying efforts of the Corporation and our organizations. NLADA, for example, has hired a full-time experienced lobbyist to work on legal services and other matters. The new entity being formed will substantially expand our lobbying capacity."[10]

To implement the Corporation's lobbying strategy, local programs were urged to "analyze new members of Congress from your area and review all old members of Congress. What is needed is carefully compiled information about all members of Congress. This includes: attitudes, public statements and prior voting records toward legal services and other social benefit programs; their supporters and major contributors from within the bar and general community; possible contacts with their supporters; and their political base in the district or state."[11]

Local programs have vigorously implemented Houseman's plan to lobby against President Reagan's budget. For instance, the National Health Law Program[12] printed and circulated a flyer urging their clients to protest the administration's cuts in medicaid and informing them that "the coalition [for combating the proposed budget cuts] is considering a National Day for Action for May 9th with coordinated activities at the local level."[13]

On state issues, Legal Services Corporation of Iowa, another defendant in our lawsuit, has disseminated a newsletter urging state legislators to enact a school breakfast bill[14] and has joined a coalition to lobby in opposition to energy rate hikes.[15]

In a similar vein, the January 1979 issue of Clearinghouse Review[16] includes an article demonstrating that lobbying has long been an encouraged activity. The article, entitled "An Advocacy Guide to the Community Development Block Grant Program" advises legal services lawyers on how to obtain government funds. The article claims that, "A community group's main consideration, for example, might be to back a sympathetic political faction or public agency over an unsympathetic one. . . "[17]

None of the lobbying described above implies a connection to an individual client's case. Nor do these statements support an argument that the lobbying is done at the request of a congressman or legislator or in matters directly affecting the Corporation or a recipient program.

The Corporation has taken the position that all of these are legal lobbying methods because they directly bear upon the "activities" the Corporation and its recipients have undertaken. Given the Corporation's interpretation, restrictions on lobbying are meaningless. So long as the issue relates to poverty, Corporation funded organizations have "a client." An example of this thinking is a letter by Dan J. Bradley, former President of Legal Services Corporation, and Charles H. Dorsey, Chairperson of the Project Advisory Group (PAG) (a coalition of legal services programs) sent to the heads of recipient programs, urging them to initate lobbying efforts. The letter advised that "[b]oth the Corporation and PAG have added temporary personnel in Washington to better assure that the interests of legal services programs and clients are heard as these issues are debated in the coming weeks and months."[18] Likewise, former Corporation Board member Howard Saks stated in November of 1980, "Legal Services must be judged on the extent to which the needs of significant segments of the poor are met and not only on actions with respect to specific clients. . ."[19]

Despite the Corporation's justification for lobbying, the Comptroller General concluded that "through the use of recipient organizations and their contacts at the state and local level, LSC has developed an extensive lobbying campaign to support reauthorization legislation for the Corporation and related appropriation matters being considered by the Congress. This activity violates the anti-lobbying statutory and appropriations restrictions described above."[20] Significantly, the Comptroller General based his opinion in part upon the conference report to accompany H.R. 7824, the Legal Services Corporation Act of 1974. The report states:

> Both the House Bill and Senate amendment prohibit the Corporation from undertaking to influence the passage or defeat of any legislation by the Congress or by any state or local legislative body. The Senate amendment allows the Corporation to testify and make appropriate comment in connection with the legislation or appropriations directly affecting the activity of the Corporation. (emphasis added.)[21]

In addition to the conference report, statements from sponsors of the Act are to the effect that the lobbying exception was understood to allow comment only upon legislation directly affecting the Corporation, not any activity the Corporation or its recipients may undertake.

Second, we complained that the Corporation had organized grass roots lobbying efforts. Unlike the first claim in which the Corporation employees themselves were lobbying, the second claim was that the Corporation urged and organized others, often without any attorney-client relationship, to lobby for political objectives [illegible] by Corporation and recipient lawyers. Supporting this claim is, among other examples, the Houseman memorandum. Houseman advises the state coordinators that:

> In the short run, a strong local political base will be critical if we are to successfully obtain

> support from Congress for the continuation of an aggressive legal services program.[21]

State programs have accordingly urged clients, the bar and the public to lobby for the Corporation's political causes. On a least three separate occasions, John Barrett, the Executive Director of the Legal Services Corporation of Iowa, initiated letter campaigns. One letter is a "Dear Client" letter urging the client to write his Congressmen and Senators to express opposition to reduced funding for legal services.[23] The second is apparently addressed to selected individuals and includes a list of points the client is to make in his letter,[24] and the third is addressed to "friends of legal services," urging them to have their friends and relatives also write.[25]

A speaker at the Puerto Rico seminar, representing Denver Legal Aid Society, urged recipient employees to encourage everyone to raise political support for the Corporation's causes. The objective, she said, was to "flood them [Congressmen opposing the Corporation's position] just as well as you flood everybody else."[26]

Third, we complained that the Corporation and its recipients had conducted training programs to teach legal services attorneys how to lobby effectively and how to organize and wield political clout. Besides the Puerto Rico seminar, examples include statements from the Houseman memorandum. "[A]n affirmative political strategy" writes Houseman, includes "selling the merits of legal services to Congress, media and others at the local, state and national level."[27] To implement that strategy, Corporation officials met with "many advocates who are experienced in political and legislative strategy in Washington. We are seeking their views on how to take the initiative. . ."[28]

At the local level, legal services programs have also sponsored training seminars. Employees of the Legal Services Corporation of Iowa have conducted seminars on legislative issues[29] and in September of 1980 the program held a "poor peoples' congress".[30] The tone of these meetings has been decisively political, with the objective of suggesting to legislators "alterative ways of meeting the food needs for the people who would be affected by the probable food program cuts."[31]

These and similar activities violate the Act's prohibition against using corporate funds "to support or conduct training programs for the purpose of advocating particular public policies . . ."[32]

Finally, we complained that the Corporation and its recipients formed political associations and coalitions with political groups. In addition to the evidence already cited, the Houseman memorandum candidly admits that such activity has been going on. Stated Houseman:

> First, we are attempting to unite and join together in this struggle. We have formed a coalition with PAG, the National Clients Counsel [sic] (NCC), NLADA, the National Organization of Legal Services Workers (NOLSW) and the Minority Caucus. It will be expanding to include others from within the legal services community . . . It will also expand to

> include organizations who are allies of supporters of legal services.[33]

In the December 1979 issue of Clearinghouse Review, Alan Houseman's Research Institute on Legal Assistance solicited members for a "National Coalition: Citizens for Tax Justice (CTJ)" - a federation consisting of "The National Public Interest Organizations," i.e., NAACP, National Consumer Federation of America, The National Counsel of Senior Citizens, Miss Fair Share, Texas ACORN, The Ohio Public Interest Campaign, The AFL-CIO, The International Association of Machinists (IAM), and the American Federation of State, County and Municipal Employees (AFS-CME).[34] The article went on to comment that "those programs active in tax reform activities, but not interested in joining the coalition may want to consider contacting the coalition for technical assistance and information about coalition members who may be active in the local area."[35]

Other instances of political organizing by corporation recipients include: (1) Connecticut Legal Services has organized a political group to oppose budget cuts;[36] (2) Vermont Legal Aid organized a political rally to protest the administration's policy in El Salvador. It also provided transportation to the rally;[37] (3) the National Client's Counsel is a member of a coalition political group that includes members like Tom Hayden's Campaign for Economic Democracy. A newsletter published by the group says "we need to build a political machine. That will take massively increased resources, staff and money." The newsletter continues to say it must "use the tools of grass roots organizing to focus on local elections."[38]

In the face of such overwhelming evidence, the defendants filed a motion to dismiss, in effect asserting that a court is powerless to stop the Corporation from spending taxpayer dollars on political activity. The Corporation argued in its brief that "judicial enforcement actions to compel compliance with the Act are not presently authorized."[39] The order dismissing our complaint similarly held that "Congress, in enacting the Legal Services Corporation Act of 1974, did not intend to create an implied cause of action."[40]

Though our complaint was dismissed, the court ironically vindicated our position that the Corporation's lawyers can waste taxpayer dollars in the pursuit of their own political objectives, in clear violation of federal law, without fear of sanction. Judge Vietor's decision exposes the inadequacies of the Legal Services Corporation Act and throws the responsibility back on Congress to amend the Act, if the Corporation's primary purpose is to be preserved.

Since 1974, Congress has not thought it necessary to provide for outside enforcement of the Act's prohibitions, though it has repeatedly reminded the Corporation not to engage in political activities. Instead, the theory has been that the Corporation was to restrain itself.

Senator Javits, one of the Act's original sponsors, reassured his colleagues that: "Freedom to represent one's clients, like other attorneys is under no circumstances to be considered under this measure as a license to use federal funds for the advancement of one's own political views."[41] But by 1978, it became obvious that the explicit prohibitions would not deter an already politically animated Corporation from masterminding more political schemes. As an appropriations rider to the Act, Congress in 1979, passed the Moorhead Amendment which again condemned the Corporation's political activities. In the words of Representative Moorhead: "[I]t has come to the attention of some members that Legal Services Corporation grantees have been using federal monies for propaganda or political purposes . . . It seems that the Legal Services Corporation does not respond well to anything but quite direct and clear action."[42]

The Moorhead amendment, like the explicit prohibitions in the Act, has had no effect. The present House reauthorization bill, H.R. 3480, is a timid approach to the problem. On the positive side, the lobbying restrictions have been tightened and the provisions of 18 U.S.C. § 1913 (making it a criminal act to use federal funds to lobby) have for the first time been made explicitly applicable to officers and employees of the Corporation. The loophole is that recipients do not fall under the prohibitions of section 1913 and the Corporation does not fall under the revised lobbying restrictions on the recipients. Even worse, the Bill provides for no outside enforcement of the prohibitions against political activities and recipient lobbying. The approach again makes the Corporation its own policeman.

If Congress wants an effective restraint against the Corporation and its recipients using taxpayer dollars to engage in political activities, a simple prohibition will not do. The Act must be amended in some form to state that an aggrieved person may bring an action against the Corporation or a recipient in an appropriate United States District Court to enforce the Act's prohibitions. Such a statute must provide for declaratory and injunctive relief but could also include a reasonable attorneys' fee to be awarded prevailing plaintiffs in the sound judgment of the court.

The advantages of this approach are obvious. The Corporation will no longer act as the judge of its own wrongdoing. The Congress will no longer have to weigh the daily excesses of the Corporation in making annual funding decisions. And most important, the poor will no longer have funds intended for their legal representation wasted on furthering the personal political objectives of the Corporation's leadership.

Thank you.

FOOTNOTES

1. 42. U.S.C. § 2996b(a)(1976).

2. The Legal Services Corporation Act begins with six findings and declarations of purpose. The first of those findings states that "The Congress finds and declares that - (1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;" 42 U.S.C. § 2996(1).

3. My perception of the split in legal services is not unique to me. Dean Geoffrey Hazard of the Yale School of Management described the competing principles for legal services programs as follows: "Two intermediate concepts of a Legal Services Program therefore contended

> for primacy in the main thrust of the program. . . [T]he concept of Legal Services Program generally shared among the legal profession was a program oriented to individual clients, concerned with individual cases, and centered on routine disorders of daily life . . . [The other concept viewed] legal assistance [as] the bridge between broad social grievances . . . and social reform."

Hazard, *Social Justice Through Civil Justice*, 36 U. Chi. L.Rev. 700 (1969).

4. Seminar presentation by Bari Schwartz, lobbyist for the Food Research Action Center, in San Juan, Puerto Rico (Nov. 9-14, 1980). Attachment 1 at 84.

5. 42 U.S.C. § 2996f(a)(5) (1976).

6. 42 U.S.C. § 2996e(c)(2) (1976) (emphasis added).

7. Bari Schwartz at the Puerto Rico Seminar, *supra* note 4, said: "Every support center has a different mechanism for deciding priorities, for deciding what kinds of issues we are going to work on. A number of us have over the last couple of years, developed questionnaires . . . We asked people to rate the different activities that we work on, and when I say activities I mean both substantive issues. We listed every possible substantive issue generally falling under the rubic of food and hunger." Attachment 1 at 60.

8. Memorandum by Alan Houseman to State Coordinators and Other Interested Parties (December 29, 1982). Attachment 2 at 1.

9. *Id.* at 8.

10. *Id.* at 9

11. *Id.* at 13.

12. The National Health Law Program, Inc. is a recipient organization and had an approximate funding level of $600,000.00 in 1980.

13. Flyer published by the National Health Law Program, Inc. Attachment 3.

14. Session News, Legislative Report, No. 8 published by Legal Services Corporation (March, 1980). Attachment 4.

15. Flyer distributed by a Citizen/Labor Energy Coalition to Iowa legislators. Legal Services Corporation of Iowa is a member of the coalition and an active participant. Attachment 5.

16. Clearinghouse Review is a Corporation funded law review, newsletter, and case reporter. CDBG [Community Development Block Grant] Training Advisory Committee, *An Advocacy Guide to the Community Development Block Grant Program*, 12 Clearinghouse Rev. 610 (Jan. Supp. 1979).

17. *Id.* at 641.

18. Letter from Dan J. Bradley and Charles H. Dorsey to Project Directors (April, 1980), quoted in Soclar letter, *infra* note 19.

19. Statement of Howard Saks (November, 1980).

20. Letter from Milton Soclar, Acting Comptroller General to Congressman James Sensenbrenner (May 1, 1981). Attachment 6.

21. S. Rep. No. 93-345, 92nd Cong., 2d Sess. 22 (1974).

22. Houseman, *supra* note 8, at 7.

23. Letter from John C. Barrett, Executive Director, Legal Services Corporation of Iowa, to "Dear Client" (March 16, 1981). Attachment 7.

24. Letter from Legal Services Corporation of Iowa to Mr. Shelton (March 12, 1981). Attachment 8.

25. Letter from John C. Barrett, Executive Director, Legal Services Corporation of Iowa, to "Friends of Legal Services" (March 18, 1981). Attachment 9.

26. Statement by June Gill in San Juan, Puerto Rico, *supra* note 4 at 68.

27. Houseman, *supra* note 8, at 10.

28. *Id*. at 11.

29. Memorandum from Dan Blanco, Food Issue Paralegal, Legal Services Corporation of Iowa, to Senator Charles Grassley (June 12, 1981). Attachment 10.

30. Affidavit of Richard Vander Mey, Legislative Director for Senator Charles Grassley (September 3, 1981). Attachment 11.

31. *Id*. and Blanco, *supra* note 28.

32. 42 U.S.C. § 2996f(b)(6) (1976).

33. Houseman, *supra* note 8, at 7.

34. Research Institute on Legal Assistance, *Tax Reform Coalition*, 13 Clearinghouse Rev. 603 (Dec. 1979).

35. *Id*.

36. The Bridgeport Post, May 6, 1981. Attachment 12.

37. The Times Argus, April 30, 1981. Attachment 13.

38. The Campaign for Economic Democracy is part of the Citizen/Labor Energy Coalition. Policy Networks Newsletter (May, 1981). Attachment 14.

The Executive Director of the Coalition, Heather Booth explained the coalition's goals in Booth, *Left with the Ballot Box*, (periodical unknown) (May - June, 1981). Attachment 15.

39. Brief of Defendant at 21, *Grassley v. Legal Services Corporation*, No. 81-277B (D. Iowa Feb. 3, 1982).

40. *Grassley v. Legal Services Corporation*, No. 81-277B, *slip op.* at 12, (D. Iowa Feb. 3, 1982).

41. 990 Cong. Rec. 40477 (1973).

42. 124 Cong. Rec. H 5544 (1978).

[Clerk's note.—The following articles (Nos. 1, 6, and 15) have not been reproduced but have been retained in the committee's files and are available upon request for inspection.]

APPENDIX

LIST OF ATTACHMENTS

* 1. Transcript of Seminar on Legislative Advocacy, San Juan, Puerto Rico, November, 1980.

2. Memorandum of Alan Houseman, December 29, 1980.

3. Flyer published by the National Health Law Program, Inc.

4. Session News, Legislative Report, No. 8. Published by Legal Services Corporation of Iowa (March, 1980).

5. Flyer distributed by a Citizen/Labor Energy Coalition.

6. Letter from Milton Soclar, Acting Comptroller General to Congressman James Sensenbrenner (May 1, 1981).

7. Letter from John Barrett, Executive Director, Legal Services Corporation of Iowa, To "Dear Client" (March 16, 1981).

8. Letter from Legal Services Corporation of Iowa to Mr. Shelton (March 12, 1981).

9. Letter from John C. Barrett, Executive Director Legal Services Corporation of Iowa to "Friends of Legal Services" (March 18, 1981).

10. Memorandum from Dan Blanco, Food Issue Paralegal, Legal Services Corporation of Iowa, to Senator Charles Grassley (September 3, 1981).

11. Affidavit of Richard Vander Mey, Legislative Director for Senator Charles Grassley (September 3, 1981).

12. The Bridgepost Post, May 6, 1981.

13. The Times Argus, April 30, 1981.

14. Policy Networks Newsletter (May, 1981).

15. Booth, *Left with the Ballot Box*, (periodical unknown) (May - June, 1981).

* - UNDER SEPARATE COVER

ATTACHMENT 2

[MEMORANDUM FROM ALAN W. HOUSEMAN]

December 29, 1980

State Coordinators and Other Interested Parties

Alan W. Houseman Alan

Summary of our Overall Activities, Strategy and Perspective

To assure that there is full knowledge among all critical actors in the effort we are undertaking to preserve aggressive legal services, I have prepared this summary of our activities, strategy and perspectives. Much of this comes from the oral remarks that have been given at the Regional Meetings and will not be new to most of you. Most of this information has been and will be supplemented in more detailed ways.

Overall Perspective

Today we face a severe threat to the continuation and growth of aggressive legal services. At stake is the survival of the legal services movement. By that I mean:

- Survival of committed, aggressive and political staff whether they are lawyers, paralegals, support staff or other advocates;
- Survival of aggressive advocacy, (i.e., advocacy which utilizes the full scope of representation including legislative and administrative representation, litigation and community education; advocacy which seek all possible remedies; and advocacy which is not restricted in what defendants can be sued, e.g., government entities);
- Survival of client involvement and control.

All three of these are essential to the legal services movement. All three of these are under attack and must be pressured and strengthened.

Far more is at stake than the survival of Legal Services. Many social benefit and entitlement programs that have developed during the 60's and 70's to provide concrete benefits to poor people are threatened. As we proceed in our fight, we must take all the steps necessary at national, local or state levels to assure the continuation of other social benefit and entitlement programs. It is essential that we join with others in preventing cutbacks in these programs, and preventing changes in other federal policies, such as affirmative action, which are essential to the continued development of poor people and minorities in this country. At no time must we let our own concerns override the more basic concerns of poor people.

Basic Principles

It is useful to repeat the basic principles which guide the actions that will be collectively taken to preserve legal services.

1. Using all methods of counseling and representation, legal services exists to provide highest quality legal services to all those unable to afford legal assistance in a manner which best enables poor people to assert their rights and interests and effect change in ways that they themselves choose.

2. LSC and the legal services community will continue to emphasize utilization of program resources in a manner that has the greatest impact on the largest number of poor people.

3. Legal Services must be accountable to the low-income community in program governance, allocation of limited resources, and addressing the most pressing legal problems of a particular local community.

4. The staff attorney system of delivery is essential to effective legal services and will remain the core of our delivery system.

5. LSC and the legal services community will resist any and all efforts to dismantle effective, existing programs. We will never compromise the basic values and structures of this program and we will continue to resist efforts that would impose restrictions or undermine aggressive advocacy for poor people.

Scope of Potential Threat

We will certainly face serious efforts by opponents of aggressive legal services to:

(1) Appoint members to the LSC Board who are not supportive or even hostile to aggressive legal services and the staff attorney system. Currently five terms are up; in June, the additional six positions will be up for nomination.

(2) Add additional restrictions on the types of representation (legislative and administrative advocacy), on types of cases (aliens, education, abortion, suits against government entities), or on attorney fees, support and training.

(3) Reduce our appropriations and/or earmark existing or new funds.

(4) Increase control of legal services staff and advocacy through a hostile bureaucracy, through political pressure from Congress, or through local and state government.

(5) Substantially alter our current delivery system and reallocate current resources to judicare and other private attorney models of delivery.

(6) Increase the role of local and state governments in funding and overseeing legal services delivery.

There will also be attempts by the "far right" to dismantle or eliminate the legal services program. These proposals have surfaced during the transition and will also arise during consideration of our reauthorization in 1981.

We can not now predict what efforts will be made, by who and their timing to restrict or dismantle legal services. There are many possible scenarios tha may develop both in the short and long run. What we are doing is to plan for every possible development.

Political Situation

We have a new administration headed by a President who has historically shown hostility to Legal Services. While Governor of California, President elect Reagan attempted to veto and dismantle California Rural Legal Assistanc He also sought to impose additional controls on aggressive advocacy by Legal Services attorneys.

In the only public statement (in the American Bar Association Journal), the President-elect gave great deference to the pro bono efforts of private attorneys and called for an evaluation of the Legal Services Corporation to ensure "that it is serving the purpose for which it was intended." He went on to say: "Such a program should not be used to fund, at taxpayers expense, suits which are in reality attempts to force a judicial resolution of political and public policy issues properly left to the elective branch through its representatives in Congress... I would also like to explore possible alternatives to the monolithic federal approach to the legal problems of the poor. I believe there is room for increase activity on the part of local government and local bar associations."

Some of President-elect Reagan's senior advisers and key cabinet members are people who may not be particularly supportive of legal services and who lack understanding of our program.

We face a much more conservative Senate which is now controlled by Republicans and southern Democratics. Many of the newly elected Senators are idealogically opposed to legal services. While we have some strong support in the Senate Committee on Labor and Human Resources, we face severe problems with the entire Senate/

While the White House is still in Democratic control, it is much more conservative. Many believe there is now a majority of conservatives in the House which can block most liberal legislation. Although, our committee will remain supportive, we will continue to face, as we have in the past, severe problems on the floor.

The American Bar Association, though remaining steadfast in support of aggressive legal services, has moved to introduce legislation seeking to mandate the involvement of private attorneys in the delivery of legal services. We must not let this development affect their support for effective, aggressive advocacy.

Many of our allies are themselves politically weakened. Moreover, the organizations from which we traditionally received support have not yet made the survival of legal services a high priority. We may not have reached out sufficiently to other potential allies whether on a national or local level.

We have lost the support of large numbers of clients and poor people. Client involvement and control has not become a reality in most programs. Client organizations both on a local and national level have few resources to affectively advocate continuation of legal services.

We are not prepared for battle. We are not effectively united. The Legal Services Corporation has not had to face a major political crisis since its inception. The Legal Services Community has not had to face a political crisis of this severity since 1973. There are many new people in Legal

Services. Some may not share the values of the community's leadership. Some may not be willing to take political risks to preserve aggressive advocacy.

On the other hand, we do not start from a position of weakness. We are stronger and more geographically diverse than ever before. We have able and committed staff working in programs throughout the country.

The Legal Services Corporation is an independent entity. Many people on the Hill, in the administration and the press perceive LSC to be an efficient and well run institution.

We have more resources to devote to this effort than we have had in the past. We are more sophisticated politically at both national and local levels.

What we are doing to wage this battle

First, we are attempting to unite and join together in this struggle. We have formed a coalition with PAG, the National Clients Counsel (NCC), NLADA, the National Organization of Legal Services Workers (NOLSW) and the Minority Caucus. It will be expanding to include others from within the legal services community, such as National Association of Indian Legal Services (NAILS), migrant farm workers group, women's caucus, Organization Legal Services Backup Centers (OLSBUC), state support and others. It will also expand to include orgranizatic who are allies and supporters of legal services.

The coalition members will be forming an outside entity to lobby and coordinate survival activities on behalf of the legal services community. This entity will be established soon and will begin to function early in 1981.

Second, we are expanding and strengthening our state coordination network. Thi is essential in order to assure effective communications within the community a for our congressional efforts.

Third, we are seeking to diversify and strengthen the base of local and state programs. It is essential to broaden the base. In the short run, a strong loc political base will be critical if we are to successfully obtain support from Congress for the continuation of an aggressive legal services program. Effecti lobbying in Washington will require local programs to establish credibility and a base in their communities and to develop allies who can and will assist them in persuading their Congressman and Senators to support legal services. In the long run, a strong local base will be necessary to survive possible efforts at local and state control through block grants or private bar control.

These plans involves a series of regional meetings that will attempt to help programs identify how to shore an up and strengthen their base of support including support from the private bar, increased support from organizations that can be effective allies, effective use of the media and improved relations with Congressional offices. In addition to the meetings, there will be technical assistance, training and other assistance available to local programs.

Fourth, we are strengthening our base of support nationally by developing closer ties and better relationships with Civil Rights, labor, elderly, consumer and many other organizations and individuals who have been allied with us in the past We are also reaching out to new organizations as well to develop alliances and obtain support. Because legal services is only one of many issues with which these organizations are concerned, the National Support Centers and others will be joining with these organizations in common efforts to prevent benefit program reductions.

Fifth, we are addressing short-term issues that require immediate action. Through the National Legal Aid and Defender Association the coalition has identified potential nominess for the LSC Board of Directors who are supportive of legal services but also acceptable to the Reagan Administration. In addition we are working to acquaint key people in the Reagan Administration and in Congress (including the new Senate leadership) with our program, its independence, and its achievements. We are shoring up and strengthening the support we have among some members of the Reagan team. We are identifying those who can influence members of the transition teams and the appointees of the new administration.

Sixth, we are taking steps to protect programs and our overall delivery system. We will address basic bureaucratic and programmatic vulnerabilities that have been identified by GAO reports and by others. We are also reviewing our entire support structure to make sure it is sufficiently insulated from political pressure and can function effectively in the future.

Seventh, we will be increasing the Washington lobbying efforts of the Corporation and our organizations. NLADA, for example, has hired a full-time experienced lobbyist to work on legal services and other matters. The new entity being formed will substantially expand our lobbying capacity

Eighth, we are developing an affirmative legislative strategy to deal with the difficult situations we face in the next session of Congress with regard to both appropriations and reauthorization.

This year it will be necessary for us to get out reauthorization through Congress. The Senate will not approve our appropriations without a reauthorization. We will also need to work again with the Budget Committees in the House and Senate. Last year, the budget process played a major role in setting priorities on substantive legislation as well as appropriation levels. Finally, confirmation in the Senate of LSC Board nominees may require some efforts by the legal services community.

/ Although an affirmative political strategy has not yet been fully developed, it will include at least the following components:

1. Selling the merits of legal services to Congress, media and others at the local, state and national level. Much of this will be done by local people and local programs.

2. Developing a broad range of support from a wide sector of group and organizations and making it in the interest of these groups for legal services to continue without restrictions. This will require effective work at a local, state and national level by legal services programs around the substantive issues affecting the members of the groups and organizations from which we seek support.

3. Improving our relationships with the private bar. We are developing a concrete partnership with the American Bar Association and other bar associations to preserve and expand legal services. This will require full implementation of the Delivery System Study Policy Report and increased involvement of private lawyers in the delivery of legal services. As part of our strategy we are seeking increase funds for expansion in the Fiscal Year 1982 Budget request. By seeking funds from Congress, we believe we can obtain support for the maintenance and expansion of existing programs and prevent mandates in the Legal Services Corporation Act that would reallocate current resources.

4. Developing an affirmative response to Congressional efforts to impose restrictions on legislative representation and other limitations on the scope of representation to be provided to our clients.

To develop this affirmative strategy we are preparing at least two background papers for circulation and discussion. John Dooley is preparing a paper discussing the private bar issues and options to address them. We are also preparing a paper analyzing possible options to prevent legislative representation restrictions. We will be meeting with a number of people to discuss each of these issues and will be holding strategy discussions with the coalition members in early January.

In considering our affirmative strategy we are meeting with many advocates who are experienced in political and legislative strategy in Washington. We are seeking their views on how to take the initiative, how to best use the private bar issue and how to prevent restrictions on case types or the scope of representation.

Regardless of our efforts in Washington, an affirmative legislative strat is dependent upon effective relations on a local level with congressional offi with state and local bar associations, and with organizations and individuals who are potential supporters and allies.

What Must be Done

Each legal services program must undertake the following:

1. Develop a specific action plan at state and sub-state levels. This plan should detail how each state will seek to maintain and improve or develop Congressional relations, relations with [illegible] allies and supporters, and relations with local and state governmental entities. The plan must also discuss efforts to develop and improve media relations and develop new media contacts. Finally, the plan should specifically include concret steps to maintain, improve and/or develop meaningful relations with poor people's organizations.

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Many states have already developed such plans. Others are beginning to do so and will be completing the plans at the regional meetings.

These plans will require every program to shift program resources to undertake the efforts outlined in the plan and to change the priorities and work of project directors and staff.

2. Appoint a program coordinator or coordinators who will have overall responsibility for coordinating the implementation of the state and sub-state plans and assuring that all survival activities are carried out.

3. Develop timely and effective communications with the state coordinator. The state must assure that the coordinators have adequate staff and a means of communicating effectively and in a timely manner with all programs.

4. Develop effective internal communications networks that assure all staff with adequate and timely information about developments nationally and within state and local areas.

5. Continue to identify people who have contacts with officials of the Reagan Administration. State Coordinators and relevant [illegible] should be informed of these contacts. Please

6. Continue to identify potential Board nominees who are supportive of legal services and yet potentially acceptable to a Reagan Administration. Names of potential nominees should be sent to Howard Eisenberg at NLADA.

7. Analyze new members of Congress from your area and review all old members of Congress. What is needed is carefully complied information about all members of Congress. This includes: attitudes, public statements and prior voting records toward legal services and other social benefit programs; their supporters and major contributors from within the bar and general community; possible contacts with their supporters; and their political base in the district or state. This information should be sent to the state coordinator and Office of Government Relations. OGR will develop an analysis of each Congressional person and office. The completed analysis will be sent to each state and program coordinator. The analysis will also include such information as prior Congressional voting records on legal services, positions on other poor people's issues, committee assignments, names and background of key staff, and which members influence this member.

The difficulties we will face now and during the next few years will require sacrifice and discipline by LSC and program staff. Among other things:

1. We must start taking this effort very seriously if we are to succeed.
2. When program coordinators are asked to do something by the state coordinator, by LSC or members of the coalition, they must act responsibly and without delay to see that the tasks are done or that we are immediately informed that they can be done so that we can take the necessary actions to see that they are done.
3. This is the time to act and act quickly to organize within each state and local program to shore up and strengthen the base of political support.
4. Coordinated activity is important. This is not a time to act totally independent of the effort that is being initiated. Project directors and staff will have many good ideas, practical suggestions, intelligence and experience to share with national actors and with other programmatic people. It is important to work together and keep in touch.

Coaliton Building

A critical means of strengthening the local political base is to develop coalitions and working relationships with local organizations and individuals who would see it in their interest to assure the continuation of an aggressive legal services program.

Effective coalitions and working relationships will involve programs assisting these groups and organizations in concrete ways. Merely acting in concert or seeking assistance will not be sufficient. The local program must actually assist groups, individuals and coalition members so that they have a real stake in the survival of the legal services program. The legal services

Usually coalitions and working relationships will evolve out of common work on substantive issues. Legal services should seek out others in the community who may be involved on similar issues of concern to the program and client community. They should also seek to participate in activities by others that affect issues and problems of the client community.

There are a variety of with whom local programs can develop relationships. Some are involved in advocacy for the poor (such as Community Action Programs); some are involved in services for the poor. Many are involved in common issues which affect both the poor and the members of the groups. (e.g., unions and food stamps; Associations of Retarded Persons and special education; elderly organizations, etc.). Many are involved directly in advocacy for populations which include the poor (civil rights, etc.).

In developing working relationships and coalitions on substantive issues, legal services programs and staff should not forget their principal role as advocates for the poor. The point of developing working relationships and coalitions is to strengthen the power of poor people not to shift the program toward a different population. Legal services should not be viewed as compromising the interests of poor people for its own survival or for the broader good of the coalition. Moreover, legal services should seek to involve poor people directly in the coalitions and bridge relationships between poor people and individuals and organizations with common interests or issues.

The Broader Picture – The Needs of our Clients

The struggle for survival of aggressive legal services should never be perceived by us to be a higher priority than the struggles that poor people will face during the next several years as this new administration and Congress attempt to curtail social benefit and entitlement programs and civil rights activities. We must not under any circumstances stop using most of our resources and most of our energies to continue providing aggressive impact advocacy to improve the lives and power of poor people.

Moreover, we must take immediate steps to develop effective efforts within each state and on a national level to preserve the gains won by poor people and their advocates during the last 15 years. And we must continue to strive to increase social benefits, improve housing and health care, prevent arbitrary private and public actions, improve job and educational opportunities, and eliminate discrimination.

This will require targeting increased resources on substantive issues which will arise on a national and state level: development of more effective national and state networks of staff, clients and other advocates and allies; improved communications to each state about national developments and within each state about national, state and local developments; strengthening our capacity for legislative and administrative advocacy; and developing more effective strategies that use all of the tools available including more effective use of litigation as well as community education, legislative and administrative representation, networking and coalition building.

Working with national and state support projects, we are strengthening current efforts and developing new approaches that will assist local and state programs in undertaking these critically important activities for survival of poor people's basic needs. Although there are different networks that will be used to work directly on these "substantive" activities, (i.e., the substantive networks that have developed through national and state support projects), we will keep all state coordinators informed of national

Thus, as we enter this struggle for our own survival, we must never forget that the purpose of our effort and the shift of some resources to our survival is not to save ourselves (or our jobs), not to save our current ways of doing things or even our current structures for that matter. Instead, the purpose of our efforts to preserve for poor people a force that they can call upon to use to improve their economic and social well-being.

ATTACHMENT 3

[FLYER PUBLISHED BY THE NATIONAL HEALTH LAW PROGRAM, INC.]

HOW SIGNIFICANT ARE THE PROPOSED BUDGET CHANGES?

President Reagan has proposed a 1982 budget of $772.4 billion. That budget is $37.4 billion less than the proposed 1982 Carter budget (a reduction of 4.6%). That figure is extremely misleading, however. The 1982 Reagan budget includes $26.0 billion more for defense than the 1982 Carter budget. Thus, the total cuts in the non-defense portions of the budget equal $63.7 billion, or a reduction of 10.4%.

WHAT DOES THE BUDGET MEAN FOR HEALTH CARE PROGRAMS?

The Carter health budget requested $86.1 billion for Fiscal Year 1982. The Reagan budget would reduce that figure to $83.5 billion, a reduction of .3%. Again, that figure is very misleading. The Medicaid and Medicare programs, the largest programs in the health budget, continue to increase at a rate of 15% a year. In order to arrive at a reduction of only .3%, other health programs have been greatly slashed. In addition, cuts are being proposed for Medicare and Medicaid.

WHAT ABOUT MEDICAID?

The Medicaid proposal is one of the most significant since it would change the nature of the program from an entitlement program to a discretionary aid program.

The budget proposes to put a cap on Medicaid expenditures beginning in the 1981 fiscal year. This would reduce federal expenditures by $370 million in 1981. For 1982, this would reduce federal expenditures by more than $1 billion, a 6% cut in federal Medicaid spending. After 1982, federal expenditures would only be allowed to rise by the general consumer price index inflation factor. At present, federal expenditures are not limited and rise automatically with state expenditures.

WHAT EFFECT WOULD THIS CAP HAVE?

Although most people recognize that the Medicaid program could be made more cost-effective, the Medicaid cap does not address that problem. It does not increase access to ambulatory care or encourage preventive medicine. The costs of health care would continue to rise, while federal expenditures would be frozen. The states would therefore be forced either to appropriate even more money for the Medicaid program or to cut back on benefits, eligibles or reimbursement. Meanwhile, the cap would preserve drastic differences in the scope of services existing in different states.

BUT AREN'T THOSE CUTBACKS PROHIBITED UNDER CURRENT LAW?

The Medicaid statute presently limits state discretion in choosing among eligibility categories, selecting benefit packages, and reimbursing providers. The budget proposes to repeal those protections to allow states greater flexibility. States would be permitted to impose copayments on all services. Freedom-of-choice would be restricted. Mandatory eligibility categories would be reduced.

Generally no. In most states, the Medicaid programs are dominated by the hospital and nursing home lobbies. As a result, nearly 3/4 of all Medicaid expenditures presently go to institutional care. Few states provide even minimal eligibility for children and others in need of ambulatory care and many non-institutional services are either not covered or are not reimbursed at adequate levels to guarantee access. That trend is likely to be exacerbated by the Reagan proposal.

WASN'T MEDICARE UNTOUCHED BY THE BUDGET CUTS?

Although Medicare was included as one of the safety-net programs that would not be reduced, the Reagan budget calls for repeal of several Medicare amendments adopted near the end of last year. The budget calls for repeal of the expanded coverage of non-routine dental services, coverage of pneuococcal vaccine, and some home health changes.

WHAT ABOUT THE OTHER HEALTH PROGRAMS?

Many health programs have been proposed for consolidation in block grants to the states. These block grants would be funded at approximately 75% of the budget levels.

HOW WOULD A BLOCK GRANT WORK?

Ten or more existing programs would be lumped together (after federal funds have been reduced by 25%) as one block grant. A state would then receive a lump-sum amount to be spent for a set purpose (but defined very generally). No specific services would have to be provided and no particular population groups would have to be aided.

WHAT PROGRAMS WOULD BE INCLUDED IN THE BLOCK GRANTS?

One block grant would be for basic health services. This grant would include such current programs as community health centers, black lung clinics, migrant health centers, home health services, maternal and child health services, hemophilia services, sudden infant death syndrome, emergency medical services, and mental health, alcoholism, and drug abuse services. These basic health programs would be cut $399 million.

The preventive services block grant would include such current programs as family planning, genetic diseases, health incentive grants, risk reduction and health education, venereal disease prevention, immunization, fluoridation, adolescent health, genetic diseases, rat control, lead-based paint poison programs, environmental hazards, and occupational safety and health. The funding reduction for these programs would be $93 million.

IS A BLOCK GRANT REALLY SUCH A BAD IDEA?

Yes, in most states, because of the unlimited state discretion. For example, in a particular state, agency personnel might be opposed to contraception. They might decide to include no money for family planning programs from their preventive services block grant and to use the money instead for the other listed purposes. That would be legal under the block grant approach.

WHAT OTHER HEALTH PROGRAMS WOULD BE CUT?

The National Health Service Corps would be cut by 24%, or $31 million. The Indian Health Service faces a reduction of 4%, or $28 million. Health Systems Agencies, the focus of local health planning efforts through the country, would be reduced by 92%, or $82 million with likely elimination in 1983.

WHAT HAS BEEN THE CONGRESSIONAL RESPONSE?

There has been relatively little opposition expressed in Congress against these proposed cutbacks. The Republicans are generally enthusiastic about the cuts. The Democrats, still shell-shocked from the November election, have been largely afraid to challenge the Administration.

BUT DON'T THEY REALIZE THE EFFECTS OF THESE CUTS ON THEIR DISTRICTS?

Generally no. Congressional representatives have indicated to us on numerous occasions that they are only hearing from people who support the cuts. This has largely been the result of a well-financed and well-orchestrated lobbying effort by conservative groups to create the impression of a national mandate for these changes. The momentum created by that effort is only now beginning to change.

HOW WOULD THESE CUTBACKS BE IMPLEMENTED?

The first step in implementing a budget is enactment of a First Concurrent Budget Resolution. This first step is already underway. The authorizing committees in Congress (the committees with jurisdiction over programs like Medicaid) have recommended or are preparing to recommend budget figures for the programs within their jurisdictions. These budget figures will then be incorporated with changes into a House and a Senate budget resolution. After consideration by both houses and agreement between the houses over differences, a joint resolution will be agreed to. This joint resolution will establish expenditure levels, revenue levels, and a projected deficit or surplus.

While not necessarily agreeing with the specific proposals recommended by the President, the various committees have generally agreed to support massive cuts in the federal budget. These recommended cuts will then be reconsidered by the responsible committees and implementing legislation will be proposed. This legislation is known as a reconciliation bill since it reconciles the projected costs under the various federal programs with the approved expenditure ceilings of the budget resolution.

WON'T A BALANCED BUDGET ULTIMATELY HELP OUR CLIENTS?

The main justification put forward by the Administration for these cuts is that they are necessary to fight inflation. Even the relatively conservative estimates of the Congressional Budget Office indicate that a balanced budget would reduce the inflation rate by only about 1 percentage point. Thus, it will not address the ~~real causes of inflation, like the high interest~~ rates, but will increase the hardship for many people.

In addition, unless there are even greater cuts ahead, the Reagan budget will not be balanced. The Congressional Budget Office has concluded that the Administration has underestimated spending for 1982 by as much as $25 billion. This will translate into a deficit for 1982 of $60 billion to $70 billion. If the economy continues to worsen, as many have predicted, that deficit will increase.

And at the same time that the domestic human service programs are being dismantled, the defense budget is being increased by 13%. Those expenditures are generally considered by economists to be the most inflationary and to have the least effect on reducing unemployment ~~and improving the economy.~~

WHAT CAN OUR CLIENTS DO TO INFLUENCE THIS PROCESS?

By the time you receive this mailing, most of the committees will have reported their budget recommendations for the programs within their jurisdictions. The next key [illegible] is May 15, the deadline for Congressional action on the First Budget Resolution. If you have eligible clients who will be affected by these changes, the most effective thing they can do for themselves is to contact as many senators and representatives as much before May 15 as possible. They should explain their opposition to the proposed budget cuts and the need to preserve these social programs. IT'S NOT TOO LATE AT ALL. The budget process is a long one, and client groups have many opportunities to influence it. Even after the First Resolution there is the reconciliation process and later a Second Budget Resolution. Many changes were made in the 1981 budget after the adoption of the First Budget Resolution.

IS ANYTHING HAPPENING AT THE NATIONAL LEVEL?

Numerous coalitions have formed to combat the proposed budget cuts. A new coalition of approximately 80 organizations named April 15-22 as a National Week of Action. This coalition, spearheaded by the National Anti-Hunger Coalition, includes groups ranging from the Steel Workers Union to the Urban Coalition to Rural America.

The week of April 15-22 was chosen because it coincides with the Easter recess. During this period most legislators will be in their districts and accessible to community organizations and individual constituents. It therefore represents an ideal time for clients to communicate with their elected representatives and to indicate their concern that the President's Budget disproportionately impacts the poor.

Beyond that, the coalition is considering a National Day of Action for May 9 with coordinated activities at the local level. It was felt that a mobilization of forces in Washington would be counter-productive and would divert energies that need to be focused on local activities.

If you would like information on these activities at the local level, please contact the Anti-Hunger Coalition Clearinghouse at (202) 452-8250.

WHAT IF HEALTH IS NOT MY MAJOR PRIORITY?

If health is not your major issue then you should focus your advocacy on your priority issue. Nearly all of the legal services back-up centers have prepared or are preparing budget fact sheets on the programs they work on. If you are working on welfare or food stamps issues, then you should discuss the importance of these programs with your legislators. The goal of the coalition is to emphasize the support for the various social programs and to urge that no worthy program be pitted against another for survival. All of these programs provide important services to our clients and should not be slashed. At the same time, we are recommending ways to improve the programs and make them even more cost-effective. If you need more information on the budget, please call either Judy Waxman or myself at the NHeLP-D.C. office. The West Coast office has fact sheets available [illegible]:

NATIONAL HEALTH LAW PROGRAM
2639 South La Cienega Boulevard
Los Angeles, California 90034

ATTACHMENT 4

[SESSION NEWS, LEGISLATIVE REPORT NO. 8]

MARCH 1980

During the month of February, further evidence of the legislature's basic anti-people/pro-big-business posture surfaced in the Iowa House of Representatives. At a House Republican caucus, twenty-eight Representatives requested additional cuts be made in the Governor's already bare-bones budget. The requested cuts would be detrimental to people with low incomes, people with fixed incomes and poor people. One example was a proposed million dollar cut in the ADC budget. Clearly, the attitude is "what is good for big business is good for Iowa" without any critical evaluation given to the effect such proposals would have on Iowa's poor community. Fortunately, the majority of the DSS appropriation committee did not adopt their suggestions.

PERSONAL EXEMPTION-BANKRUPTCY EXEMPTIONS BILL. There is a proposed bill assigned to the House Judiciary committee that would eliminate the right Iowans now have according to the new federal exemptions in bankruptcy cases. Further, this proposal does not update Iowa's current exemption law which was written in the 1800's. The language in the code still includes exemptions for wagons, hives of bees, and spinning wheels. The new federal law, which went into effect October 1, 1979, includes an exemption for renters. Iowa however, does not recognize this as a valid exemption. State exemption laws apply to all lawsuits and insulate certain [illegible] classes of property which are deemed to be necessary for adequate living. The Legislature should either update Iowa's obsolete law or do nothing. If the Legislature removes the new federal exemptions, but does not adopt new exemptions, under state law, Iowans will be left with only the present antiquated and inadequate statute.

CONSUMER RATE COUNSEL. A House Energy subcommittee has now passed to the full House Energy committee a very weak, watered-down version of a consumer rate counsel bill which would provid for a lawyer to represent only residential utility consumers, excluding farmers from representation as was previously intended. The bill would place the office of Rate Counsel within the Citizen's Aide office. The [illegible] proposal [illegible] to force the Rate Counsel to seek total federal funding.

[illegible] One of the very top priorities for LSCI and many other Iowa groups is to increase the medical care available to the poor. Thirty-three states have implemented an expansion of their medicaid programs. This expansion is commonly called a "spend-down" program and provides medicaid services to individuals who meet all the medicaid eligibility criteria (blind, aged, disabled or member of an AFDC family) except the income levels. In the approved instances the individual is permitted to "spend-down" his/her income to a determined level through self payment of medical care bills. When the determined level is reached, the individual is eligible for certain medical services determined by the state which is paid for by the medicaid program.

The medically needy program is a vehicle whereby the working and fixed income poor who are now "medically indigent" can obtain some health care. It is impossible to consider this program for Iowans without discussing Chapter 255 of the Iowa Code. Chapter 255 IC was enacted in 1915 to provide medically needy Iowa residents with medical care. Chapter 255 gives counties the option of paying for local medical care with county poor funds, or transferring the individual to University of Iowa Hospitals and Clinics, where the care is paid for by state appropriated funds. The program has remained basically without change since 1915. It is very informative to recognize the magnitude the appropriation has remained during the 1970's. In 1973 the appropriation was $10,876,000.00. In 1979 the figure was $[illegible]437,000.00 and for 1980-1981 $[illegible],397,000.00.

The medicaid program is a federal match program in which the state pays 43% and the federal 57%. This means that the State of Iowa is losing several millions in constant federal dollars because it uses Chapter 255 as the medical program and [illegible] state expenditure could leverage a [illegible].

Another problem that is very much with us is that of energy or the cost of gasoline. I have been informed that in 1977 the University of Iowa spent $500,00[illegible] [illegible] patients from around the state to Iowa City. It takes very little imagination to estimate what the transportation bill must be in 1980 with unleaded fuel at $1.[illegible] a gallon.

[illegible] cross roads as regards its funding of medical services. [illegible] as we have been since the medicaid law was enacted. [illegible] millions of dollars and causing undue hardship for [illegible] form of medically needy program.

SCHOOL BREAKFAST BILL. Senate File 455 would allow breakfasts to be offered to school children of low income families in school districts where 40% of the school lunch program is free. This bill passed the Senate last year and is now being held up in the House Education subcommittee. The chairperson of this subcommittee is Representative Del Stromer who is also chairperson of the full House Education committee. Results of recent studies document the fact that hungry students do not learn well and often tend to cause discipline problems in the classroom. We all recognize that ideally the best situation is for children to have breakfast at home. However, for a variety of reasons, many students go to school hungry each morning. As an agricultural state it behooves Iowa to provide students who do not have the opportunity to have breakfast at home with a nutritional meal to begin each school day. Keep in mind, the reasons children cannot have breakfast at home are due many times to circumstances beyond their control. Hungry students cannot be wished away, nor can we pretend the problem of hungry students does not exist. The bill if passed would:

1. Affect only thirty-one of the school districts in the state.
2. Provide 20,000 students with an opportunity to begin each school day free from hunger.
3. Cost the state only $45,000.

Iowa students deserve our concern. We hope legislators will answer this need and pass Senate File 455 this session.

ATTACHMENT 5

[FLYER DISTRIBUTED BY A CITIZEN/LABOR ENERGY COALITION]

OPERATION VALENTINE

To begin developing an effective grass roots campaign on utility and energy issues in the Iowa Legislature, we need to develop greater visibility and issue awareness.

For this reason the Iowa Citizen/Labor Energy Coalition is launching a new campaign called "OPERATION VALENTINE." To be successful this project requires your immediate attention. The initial goal is to hand deliver at least 3000 energy Valentine Day cards to Iowa lawmakers on February 14. Additional cards will be mailed to them throughout the month of February. This, in turn, will be followed up with personal letters, postcards and phone calls in late February and early March.

There is no question that our timetable is a difficult one. However, if the efforts are successful, we will have taken some major steps toward passage of

utility and energy legislation which will provide greater economic protection for all of our citizen constituencies.

DELIVERY OF ENERGY VALENTINE DAY CARDS

During this week, and especially on February 10 and 11 (the weekend), we will focus on collecting signatures.

Requirements are that they be legible and include a full address, as indicated in the enclosed sample.

If known, the card should be addressed to a specific legislator. However, if the person does not know who his or her legislators are, we can identify the proper legislative district if we have the town and zip code information.

Persons may wish to address two cards so that one can be delivered to their representative and the second to their Senator.

NOTE: As many cards as possible should be mailed to CARG offices no later than Monday morning, February 12 to allow us time to sort and prepare them for personal delivery.

MONEY: Although not necessary, we are asking you to contribute $5 to help cover expenses when you return the cards. If you can't afford it, you may ask each person who signs a card to contribute 25¢ to $1.

QUESTIONS? GIVE ME A CALL at 1-515-292-4758.

NEWSLETTER

Issue No. 3 February 1979

C/LEC Conference

On January 20, the Iowa Citizen/Labor Energy Coalition (C/LEC) held its first meeting since the regional conference in Des Moines last November. The conference was organized by the Community Action Research Group (CARG) and was held on the campus of Iowa State University in Ames. Despite inclement weather, the conference was attended by approximately 60 people representing labor, church groups, low-income and elderly groups, and consumer and environmental groups. (See pictures on page 3.)

In addition to Bob Hudek's (C/LEC Representative for the Midwest) report on national developments of interest to Coalition members, Tami Luscombe (Coalition for Community Reform) spoke on the need for action and Don Rowen (Iowa Federation of Labor) spoke on the need for cooperation between citizen and labor groups.

WATERLOO

The rest of the morning session was given over to instructional lectures. Judy Ruffo (Legal Services) spoke on the need for a consumer bill of rights; Skip Laitner (CARG) discussed the history of regulation and Rich Cool (CARG) explained several alternatives to power plant expansion.

Jack Kegel, an attorney with CARG, explained the new Commerce Commission rules governing winter utility shutoffs, which were passed largely as a result of efforts by the Coalition's member groups. A summary of Jack's talk is contained in this issue of the newsletter:

Des Moines

In the afternoon session, David Osterberg (Cornell College) discussed rate reform and Bob Bray (Legal Services) spoke on the need for an Office of [illegible]. The rest of the session was spent planning future Coalition activities and organization.

Resolutions

The Coalition identified three issues of major concern and adopted them as priorities which will shape future Coalition activities. They are:

1. Rate Restructuring--The Coalition supports rate restructuring which will, unlike the current system of declining block rates, protect consumers, especially low-income persons and the elderly, and promote energy conservation;

2. Office of Consumer Rate Counsel--To aid citizens in participating in the regulatory process;

3. Consumer Bill of Rights--The regulatory scheme must provide residential consumers with basic due process rights, notice of rights and duties, and the opportunity to be heard by an impartial decision maker.

The Coalition also adopted, as a "statement of purpose", eleven additional resolutions:

1. Energy prices must be just, reasonable, and affordable for all consumers. The consumer must be protected from monopoly price gouging. Regulating oil and gas prices on the basis of actual production costs will ensure that both consumers and producers will be treated fairly.

2. Energy policies must promote economic health by the preservation and creation of jobs. Emerging alternative energy technologies, as well as energy conservation efforts, can provide hundreds of thousands of new jobs without deterring economic growth.

3. Concentrated economic power in the energy industry must be broken up. The energy corporations control their rates of production as well as the amount of cost data information they release. In this way they are able to manipulate price increases in spite of regulation. A handful of large corporations are thus controlling sources of energy that should be competitive. This concentration must be broken up to ensure fair prices, full employment, and the equitable distribution of the benefits of the energy we have.

4. Energy must be safe. State and federal governments and the energy industry must provide for the health of workers in the industry, as well as for the health of the general public. Energy development, processing, and use should impose minimum environmental destruction.

5. We must accelerate the development of conservation and alternative energy sources. This must be done to free our nation from dependence upon energy sources controlled by non-competitive industries.

*6. More public funding for citizen participation and representation in rate cases--The Coalition should work to ensure that proposed legislation to increase the amounts provided to citizen and consumer groups to intervene in rate cases before the courts and utility commissions is passed and expanded.

7. Prohibition of abusive utility service policies--Utility billing and shutoff policies tend to discriminate against low and fixed-income customers, often with tragic consequences. Discriminatory shutoff and deposit policies should be prohibited and winter shutoffs should be absolutely forbidden.

8. Restrictions on automatic rate adjustments--For many consumers, most of the increase in utility bills is due to automatic adjustments covering items such as fuel costs. This procedure has frequently resulted in over-charges and sloppy management by utilities. No increases in utility rates should be permitted without full evidentiary hearings, except during emergencies.

9. Eliminating "phantom taxes"--The Environmental Action Foundation and the Tax Reform Research Group estimate that each year utilities pass on $3 billion in anticipated taxes to consumers, but only pay $500 million of this amount in actual taxes. This results in a $2.5 billion overcharge to consumers.

10. Federal standards for state utility commissions--Federal standards for state public service commission rate structure could mean more equitable rates which would encourage conservation. By applying the standards nationwide, there would be less temptation for industry

to leave the states with the fairest rate structures and move to states where consumers subsidize industrial rates.

11. Prohibition of construction work in progress (CWIP) in utility rate bases--Many utility companies are permitted to charge customers for the costs of new power plants while they are under construction. This policy allows utilities to charge today's customers for tomorrow's power and helps them to finance construction of unnecessary power plants. CWIP should be prohibited from inclusion in utility rate bases.

These resolutions will set the tone for much of the Coalition's future activity.

Steering Committee

The final order of business was the election of a steering committee to represent the interests of the various groups that make up the Coalition. Nine people were chosen at the meeting, and six to eight more will be chosen as the Coalition develops. Those elected thus far are:

David Osterberg	Cornell College, Dept. of Economics	
Chuck Gifford	United Auto Workers	Des Moines
Merle Reed	IA State Council of Senior Citizens	
Jay Steele	Seniors United for Action	
John Sutherland	Citizens for Utility Roll-Back	- Davenport
Geneva Daye	Logan Community Development	
Tami Luscombe	Coalition for Community Reform	- Des Moines
Bob Bray	Legal Services	- Des Moines
Kevin Beauvais	IA Assn. Community Action Agencies	- Sioux City
Skip Laitner	Community Action Research Group	- Ames
Lynda Kincaid	Operation Threshold	- Waterloo

The steering committee held its first meeting on January 29, to plan Coalition actions and to seek funding and staff. Member groups will be kept informed of the actions of the steering committee.

Community Action Research Group is currently handling staffing and organizing needs of the Coalition. If you know any individuals or groups who should be informed of Coalition activities, or if you want further information, contact John Ahrens at CARG, Box 1232, Ames, IA 50010, or by calling 515-292-4758.

* *

THE NEW SHUTOFF RULES

by Jack Kegel

The following is a summary of Iowa's new utility shutoff regulations, effective December 22, 1978. Citations are to the Commerce Commission rules, section 250 of the Iowa Administrative Code. Chapter 19 of the rules deals with service supplied by gas utilities and chapter 20 applies to electric utilities.

1. Budget billing: 19.4(10); 20.4(11). Each utility must now offer a "budget payment" plan that normalizes payments over the course of the year. The customer can enroll in the plan at any time and no initial payment can be required.

Unfortunately, the utility can require the customer to pay any past due amount before allowing enrollment. This could effectively preclude many consumers from taking advantage of the program.

The customer on budget billing can change the due date of the bill, on written request, "for cause". This will enable customers to coordinate the due date of their bills with their own income pattern.

Beyond these guidelines, utilities are free to structure budget plans as they wish.

2. Reasonable agreement to pay: 19.4(10); 20.4(11). Utilities must offer a customer who is unable to pay in full the opportunity to enter into a reasonable agreement to pay. The utility may require confirmation

of financial trouble by social services or some other agency. (This should include community and church related organizations.)

Indices of reasonableness are the customer's ability to pay, the size of the bill, the customer's past payment history, the time the bill is overdue, and the reasons that the bill is outstanding.

CAUTION: The customer is not protected if he or she defaults after entering into a payment agreement. When assisting a consumer in negotiating a reasonable payment agreement, make sure that the payments are low enough that they won't lead to a default a month or two down the line.

3. Health hazard provision: 19.4(15)"h"; 20.4(17)"h". From November 1 to April 1, a shutoff will be postponed if it would pose an "especial danger" to the health of the customer or any permanent resident of the premises.

Confirmation by a physician, public health, or social service official may be required. (Standards for who can confirm a health hazard appear to be more strict than those for confirmation of financial difficulty; see above.) Verification of a health hazard postpones disconnection for 30 days; postponement may be extended by renewal of the verification.

A health hazard is "indicated if one appears to be seriously impaired and may, because of mental or physical problems, be unable to manage his or her own resources, carry out activities of daily living or protect oneself from neglect or hazardous situations without assistance from others."

Indicators include: age (this should include the very young as well as the elderly), infirmity, or mental incapacitation; serious illness; physical disability, including blindness and limited mobility; and any other circumstances which indicate a severe or hazardous health situation.

5. Temperature: 19.4(15)"h"; 20.4(15)"h". A residential customer may not be disconnected for non-payment when the temperature for the remainder of the day and the following day is forecast by the nearest National Weather Service station to be less than 20°F. National Weather Service stations in Iowa are located in:

Des Moines	515-285-6906
Sioux City	712-255-3809
Waterloo	319-234-6600
Dubuque	319-582-0174

6. Timing: 19.4(15); 20.4(17). Except in a situation involving a health hazard or a danger to the utility's equipment, service cannot be discontinued on the day or days before a utility's office will be closed.

Further, disconnection for non-payment may not take place on a weekend, a holiday, or after 2:00 pm unless the utility is prepared to reconnect on the same day [19.4(15)"h"; 20.4(17)"h"].

7. Deposits: 19.4(16)"g"; 20.4(18)"g". During the period from November 1 to April 1, service to a residentail customer may not be discontinued for failure to pay a deposit. This may result in a rash of shutoffs to those with unpaid deposits immediately prior to November 1 each year.

8. Notice

A. Length of Notice: 19.4(15)"h"(2); 20.4(17)"h"(2). The customer must now receive written notice at least 12 days prior to a shutoff.

B. Rights and remedies: 19.4(15)"h"(2); 20.4(17)"h"(2). The customer's 12-day notice must contain a written summary of the rights and remedies available to avoid disconnection and a designation of who should be contacted.

C. Third party notice: 19.4(15)"h"(2); 20.4(17)"h"(2). The 12-day notice must also be sent to any other person or agency designated by the customer. This provision could be very helpful in averting shutoffs for those who need help in dealing with their bills, but it will be up to friends, relatives and social service workers to ensure that utilities are informed of the need to notify third parties.

D. Personal contact: 19.4(15)"h"(3); 20.4(17)"h"(3). Before disconnecting service to a residentail customer, the utility must make a good faith effort to contact the customer in person or by phone to inform him or her of the impending shutoff and the rights and remedies available.

Between November 1 and April 1, if the personal contact attempt fails, the premises must be posted with the same information at least one day before the shutoff.

9. Disputes: 19.4(15)"h"(4); 20.4(17)"h"(4). The customer must be given a reasonable opportunity to dispute the bill before a shutoff can occur. If there is a dispute over the amount owed, the utility may require the customer to pay the undisputed portion of the bill.

10. Reasonable attempt at collection: 19.4(15)"h"1; 20.4(17)"h"1. The utility may not disconnect for an overdue bill without making a reasonable attempt to effect collection.

This provision is not new, but it should be considered in dealing with any shutoff situation.

It is up to concerned individuals (i.e., YOU) to monitor the extent to which the utility companies comply with these rules. If you have questions concerning the rules, or if you need information on which utilities serve your area, contact:

John Ahrens
CARC
Box 1232
Ames, IA 50010

ATTACHMENT 7

[LETTER FROM JOHN C. BARRETT, EXECUTIVE DIRECTOR, LEGAL SERVICES CORPORATION OF IOWA]

March 16, 1981

Dear Client:

I am writing to you because I know you are a client of the Legal Services Corporation of Iowa.

As you may have heard, President Reagan wants to eliminate all federally-funded legal services for the poor. This would include the office here in Iowa that is working on your case. I want to assure you, however, about two things.

First, President Reagan cannot abolish Legal Services unless the U.S. Congress agrees. That is a process that could take several months. In the meantime, we will be continuing to work hard on your case.

Second, there are many people in Iowa and in Congress who disagree with President Reagan's proposal. Along with them, we are doing all we can to try to save legal services for low income people who cannot afford private lawyers.

If you would like to help, please write a letter in your own words and send it to your Congressman and Senators in Washington. Tell them what you think about legal services for the poor. Ask them to support refunding of legal services at an adequate level.

I have included a list of Iowa's congressmen and senators. Send your letter to the Congressman who represents your district and to both of the Senators.

Thank you very much!

Sincerely yours,

John C Barrett
JOHN C. BARRETT
Executive Director

P.S. If you have any questions about this matter of your case, be sure to contact your local LSCI office.

ATTACHMENT 8

[LETTER FROM LEGAL SERVICES CORPORATION OF IOWA]

March 12, 1981

Dear Mr. Shelton:

We are asking your help in keeping Legal Services available. President Reagan wants to completely do away with the Legal Services program. The only way this can be stopped is by getting Congress to respond to the needs of low-income people and putting Legal Services back in the budget.

Please write a letter to your Congressman and Senators today. Let them know how you feel about being denied legal help when you need it. Get your friends and relatives to write too. Only with everyone's help can we be successful in keeping Legal Services for the poor.

Sincerely,

P.S. Some points you might want to include in your letters:

(a) Denial of equal protection under the law.

(b) I need to know my legal rights.

(c) I was represented by Legal Services and helped.

(d) There is no way I can afford a private attorney, they want money from the poor before they take a case.

ATTACHMENT 9

[LETTER FROM JOHN C. BARRETT, EXECUTIVE DIRECTOR, LEGAL SERVICES CORPORATION OF IOWA]

AN URGENT MESSAGE TO THE FRIENDS OF LEGAL SERVICES

On March 7, President Reagan proposed that federally-funded Legal Services for the poor be abolished this year.

This is not just another "cutback." President Reagan wants to eliminate Legal Services altogether.

Last year alone, L.S.C.I. handled over 13,000 cases for low income Iowans. Those cases involved such problems as—

- Social Security claims for the aged or disabled
- Unemployment benefits for the jobless
- Legal help for nursing home patients and the frail elderly
- Protection for victims of family violence and abuse
- Legal assistance for low income tenants
- Representation for low income consumers and debtors
- And many, many other areas of poverty law

In addition, L.S.C.I. produced more than 30,000 "know-your-rights" pamphlets for clients throughout the state. Our workers also spoke to thousands of other Iowans at senior citizen meal sites, community centers and other locations to explain the rights of low income people.

If Legal Services is abolished, most poor people will have no way to obtain legal help in the future. The only way to save Legal Services is if the U.S. Congress passes a special law refunding it.

We would like to ask your help. PLEASE WRITE LETTERS AS SOON AS POSSIBLE TO YOUR TWO SENATORS AND U.S. CONGRESSMAN FROM YOUR DISTRICT. Use your own words. Ask them to support refunding of Legal Services for the poor at an adequate level. And have your friends and relatives write, too.

I have listed on the back of this message the names and addresses of your Senators and Congressman. Also included is a newspaper article about the campaign to save Legal Services.

Remember - your letters can make the difference! Thank you.

JOHN C. BARRETT
Executive Director

ATTACHMENT 10

[MEMORANDUN FROM DAN BLANCO, FOOD ISSUE PARALEGAL, LEGAL SERVICES CORPORATION OF IOWA]

TO: Senator Charles Grassley
FROM: Dan Blanco, Food Issues Paralegal Services Corporation of Iowa
RE: Food Issues Forum
DATE: June 12, 1981

A Food Issues Forum for Woodbury County residents is planned for June 25th in Sioux City. A number of important changes in governmental food programs are presently under consideration--changes which will affect the lives of middle and low-income people of all ages. Now is the time to learn about the future of the food programs that assist the people of our community, from pregnant women to senior citizens.

We hope that you, or your representative will plan to attend the food forum and contribute your ideas and suggestions.

ANNOUNCEMENT

A community food issues forum will be held on June 25th at the Sioux City Howard Johnson's Motor Lodge, beginning at 1:30 p.m. The meeting is open to the public, and will include a discussion of pending legislation affecting the school lunch program, nutrition programs for the elderly, food stamps, and the Supplemental Feeding Program for Women, Infants, and Children. Members of the public are encouraged to bring their own ideas and suggestions about alternative ways of meeting the food needs of people who would be affected by probable food program cuts. Area legislators have been invited to attend the food issues forum, which is sponsored by the AID Center, the Woodbury County Community Action Agency, and other interested groups.

ATTACHMENT 11

[AFFIDAVIT OF RICHARD VANDER MEY]

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF IOWA

UNITED STATES SENATOR CHARLES
GRASSLEY, et al,)
Plaintiffs,
)
vs. Civil Action
) No. 81-277-B
LEGAL SERVICES CORPORATION, et al,)
Defendants.
)

AFFIDAVIT

State of Iowa, County of Polk, ss:

I, the undersigned, being first duly sworn on oath, do depose and state as follows:

1. My name is Richard Vander Mey and I reside at 23 3rd Street NE, Washington, DC. I am employed by U.S. Senator Charles E. Grassley as his legislative director and have been so employed since Senator Grassley assumed office in January, 1981;

2. Prior to this time I was employed as chief legislative assistant to Congressman Charles E. Grassley and was so employed during the month of September, 1980.

3. During the month of September, 1980, I had occasion to be in Des Moines, Iowa, on official business. While in Des Moines, Iowa, I had occasion to attend and be present at a "Poor Peoples Congress" conducted by the Legal Services Corporation of Iowa and others located at the Savery Hotel in Des Moines.

4. I was made aware of the Poor People Congress by literature bearing the name and logo of the Legal Services Corporation (L.S.C.) and also through a newspaper article.

5. I entered the Savery Hotel and walked up to the second floor of that building where it was indicated by signs that the Poor Peoples Congress was being held. Upon turning the corner I entered a large common area where a number of booths and tables had been set up. Persons attending the Congress were to register and receive printed materials in this room. Other rooms where meetings were held branched off of this central lobby area.

6. Upon entering the common area I noticed a table or booth wherein a sign or other marking was erected indicating that this booth was to further the election campaign of Senator John Culver. Culver campaign literature had been placed upon the table along with political buttons with the word "Culver". I also observed cards and a list of sorts for persons to sign their name and address. Two persons were standing behind the table and encouraging persons to come by.

7. I made other observations in the room and shortly thereafter was requested to identify myself by a person acting in an official capacity at the Poor Peoples Congress.

8. Later I contacted persons present at the Congress who appeared to be and gave the appearance of running that meeting and expressed suprise that political activity was taking place on the premises at the Congress. I had previously understood that no political

activity was to take place at the meeting. I was informed that my employer could erect a booth or table if I desired. I explained that my appearance at the Congress was in connection with employment by the House of Representatives and that I had thought the event was to be non-partisan and non-political.

9. During the course of the day I did attend a couple meetings and made other observations. I noticed an extremely large percentage of the attendees were wearing Culver campaign buttons.

Further, affiant sayeth not.

Richard R. Vander Mey

Subscribed and sworn to before me by the said Richard R. Vander Mey on this the 3rd day of September, 1981.

Notary Public In and For the State of Iowa

CONSTANCE I. RILEY
MY COMMISSION EXPIRES

ATTACHMENT 12

[FROM THE BRIDGEPOST POST, MAY 6, 1981]

Reagan budget foes set rally for Saturday

By WALTER ZABOROWSKI

Senior citizens, middle-class families, and the poor will all be losers under President Reagan's budget proposal, and these groups should join the efforts of a local group organized to defeat the proposal, group spokesmen said today.

The local chapter of Nationwide Action for a Fair Budget consists of representatives of more than 30 area human service agencies. In addition to letter-writing and telephone campaigns to the Connecticut congressional delegation, the group sponsored a press conference this morning on McLevy Green to publicize a rally it will conduct Saturday.

The rally — to coincide with rallies conducted by other local chapters across the nation — will be conducted at 1 p.m. in front of the Federal Building, Lafayette Boulevard at State Street. If it rains, it will be conducted in the Golden Hill United Methodist Church, 210 Elm Street.

In addition to publicizing the rally and encouraging greater public participation in the local chapter, Cesar A. Batalla, chapter spokesman, said today that he expects the chapter to continue working against the Reagan budget for as long as it takes to make change.

"This is only the beginning," Batalla told a reporter after the rally. He said that as each year of Reagan's Administration passes, more people will be affected by the increasing number of cuts. These people would be expected to swell the numbers of opposition groups, such as the local chapter.

"We want to emphasize that this (the proposed Reagan budget) is going to affect more than just people on welfare," Batalla said.

For example, various Reagan cutback proposals in the area of food stamps would adversely affect senior citizens and the working poor; reductions in financial assistance for college education would adversely impact the middle class, and cutbacks in federal monies to local governments would result in higher local taxes to all, Batalla said.

Regarding cuts affecting the poor, the group provided fact sheets stating that budget cuts would result in total elimination of Connecticut Legal Services Inc., which provides access to the justice system for poor people; loss of access to regular health care for thousands of Connecticut low-income people whose Aid for Families with Dependent Children (AFDC) or Medicaid benefits would be reduced or eliminated.

. . .

Also, loss of food supplements to thousands of Connecticut pregnant women and their children through cutbacks in the Women, Infants and Children (WIC) program; elimination of and/or reductions of utility assistance—to needy people through cutbacks in federal energy assistance; plus a variety of other proposed cuts, were cited on the fact sheets.

. . .

Some of the organizations in the local group include: Connecticut Legal Services; the Spanish American Coalition; the Greater Bridgeport Council of Churches; Action for Bridgeport Community Development Inc.; the Economic Rights Organization; the Association of Community Organizations for Reform Now; the Diocese of Bridgeport; and the NAACP.

ATTACHMENT 13

[FROM THE TIMES ARGUS, APRIL 30, 1981]

Veri ionters Join Washington Rally

60-3

Scores of onters are expected to jo ass rally in Washington S to protest the Reagan istration's proposed budg rities and the admini on's interventionist poli in El Salvador.

Jeri Martinez of M ntpelier, one of two Vermo rs planning to truck rally artipants to Washington late his week, said the rally s being organized by the Pe le's Anti-War Mobilization, a alition of national groups and individuals.

The rally—which ill include a march from e Lincoln Memorial to the entagon—is being held to otest U.S. policy toward Salvador, Reagan's propo d human service budget re ctions and increases in military spending, and the draft.

Martinez, an active member of the Vermont Association of Draft Counselors, said hundreds of Vermonters likely will take part in the Washington protest, and at least two organized efforts are under way to transport rally-goers to and from Washington.

Martinez has teamed up with Burlington resident David Watts on one form of transportation—two vans that will leave Burlington at noon Friday from Ben & Jerry's ice cream parlor (the corner of St. Paul and Main Streets) and stop briefly in Montpelier at 12:45 p.m. at the Tavern Motor Inn. Martinez said the two vans will also make stops in White River Junction and Springfield to collect rally-goers.

The vans—rides on which must be arranged in advance through Martinez—will return to Vermont Monday. Martinez can be contacted at Vermont Legal Aid in Montpelier.

The Burlington Area Draft Counselors also is providing two Washington-bound buses for the rally. The buses will leave Burlington at 8 p.m. Saturday and return early Monday morning.

Reservations for the buses may be made through the Burlington Draft Counselors.

ATTACHMENT 14

[POLICY NEWSWORKS NEWSLETTER MAY 1981]

CONSERVATIVES EXPAND
SHAREHOLDER EFFORTS

Only five years ago, most shareholder resolutions challenging corporate policies were sponsored by liberal activists. In March, 1976, a listing by the Investor Responsibility Research Center (IRRC) contained approximately 320 resolutions involving "corporate social responsibility" and "corporate governance." Of these, only seven dealt with issues of concern to conservatives (broadcast accuracy, communist trade and shareholder rights).

In recent years, the number of conservative resolutions has increased significantly. During 1981, groups active shareholder initiatives included Accuracy in Media (AIM), Young Americans for Freedom (YAF), Stockholders for World Freedom (SWF) and the Foundation for the Study of Philanthropy (FSP). These efforts were supplemented by conservative resolutions from two unusual sources, the Episcopal Church and the United Church of Christ.

AIM's involvement in stockholder resolutions predates that of most other conservative groups. AIM has long been critical of a perceived bias in the nation's news media. In 1981, the group proposed that CBS and RCA appoint ombudsmen to ensure proper corporate response to complaints about unfair or inaccurate programs.

YAF recently began its shareholder activity, requesting that companies cease siness involvement in Communist countries and report on the extent of present involvement. The companies affected were Du Pont, General Electric and Standard Oil (Ohio). YAF plans to continue its shareholder activities in future years.

The Council on Economic Priorities (CEP) reported significant 1981 activity by SWF and two affiliate groups, Stockholders Against the Government Burden and the Stockholder Sovereignty Society. These three groups are headed by Carl Olson, an accountant and financial planner from California. According to reports by CEP and IRRC, Olson's groups filed a total of 18 resolutions this year. The subjects addressed included: trade with communist countries, the cost of government regulation, encouragement given employees to purchase U.S. Savings Bonds, and donations to schools with alleged communist faculty members.

FSP's Andrew Duncan has also been an active participant in the current round of stockholder initiatives. IRRC noted that Duncan filed resolutions with 14 companies, requesting that they not make contributions to schools that restrict the activities of U.S. intelligence agencies. Another FSP proposal recommended that Chase Manhattan investigate whether proposed contribution recipients have ever violated the terms of past grants. A series of FSP resolutions addressed to banks requested that banks advise beneficial owners of stock held in trust how the bank voted on resolutions involving corporate contributions. This measure was ultimately withdrawn following negotiations with all companies involved except Chase Manhattan.

A final source of conservative resolutions was not anticipated — church groups. The Episcopal Church filed a resolution asking IBM not to sell or lease computers to the Soviet Union. The United Church of Christ filed 19 resolutions requesting information on business in European communist countries. As of April 1, 15 of the resolutions had withdrawn following negotiations. measure will come to a vote in only companies: Mobil, Standard Oil of fornia, Texaco and Texas Instruments.

In all, corporations were confronted over 50 conservative resolutions in .. In the past, corporations could ote their energies to liberal initiatives on issues like South Africa, nuclear er, military conversion and political tributions. Corporations will in-asingly face challenges on such issues communist trade and contributions icies. Once the exclusive domain of erals, shareholder resolutions have become popular with conservatives well.

Of Special Interest...

According to the Federal Election mmission, Lyndon LaRouche's 1980 presential campaign owes the Treasury 10 618 in federal matching funds for it was not eligible...Action for ildren's Television will collect sigitures to protest the "censorship" ictics of the Coalition for Better elevision...Roger J. Marzulla, a trial awyer and former California judge, has een named to succeed James G. Watt as resident of the Mountain States Legal oundation...The Wilderness Society reorts that its average contribution has isen 25% in direct reaction to the ppointment of Interior Secretary James . Watt.

The Law and Economics Center, formerly located at the University of Miami, has shifted to Emory University in Atlanta, GA...The League of Women Voters, the National Women's Political Caucus, and 38 other feminist groups have joined to protest budget cuts for erally-funded women's programs... According to Newsweek, Tom Hayden's Campaign for Economic Democracy has opened an office in New Hampshire and may conduct a national direct-mail campaign to raise funds...The Progressive Alliance was dropped in a March 18 meeting of eight of its main union backers.

BIZARRE

The March issue of Mother Jones notes that the "Reagan for Shah Committee" has grown into a network "with support groups in half a dozen cities."

Included in the coalition are the Union of Concerned Capitalists, Mutants for a Radioactive Environment, the National Grenade Owners Association, the Future Dictators of America Club and the National Association for the Advancement of Rich People.

The country's Democratic governors have decided to establish a formal organization along the lines of the Republican Governors Association...Reese H. Rohbrahn, formerly government relations director for the American Council for the Blind, has been named executive director of the American Council of Citizens With Disabilities...Jaycees opposing the organization's ban on women members are forming a new group, the U.S. Junior Citizens Organization.

General Motors has agreed to a request from religious groups organized by the Interfaith Center on Corporate Responsibility to give six months notice for permanent plant closings...

The National Right to Work Committee is pushing a bill that would make it a violation of federal law to commit violence on the picket line or in other labor disputes...**The Fund for Animals** has successfully airlifted the last of 580 burros from the Grand Canyon...Among the civil rights groups that could be most affected by proposed federal budget cuts are **Operation PUSH** and the **National Urban League.**

Correction: Concerning April's article on National People's Action (NPA), it should be noted that the conference announcements made by the American Gas Association (AGA) representative were in keeping with long-standing AGA positions, and were not made in direct response to NPA demands.

efs

Y REACTS

rk Times notes that the
has begun an advertising
ed to refute claims that
ti-Semitic, opposed to
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organization is par-
sed over criticisms
vision producer Norman
nator George McGovern
n Civil Liberties Union.

CH PLANS FILM PROGRAMS

earch, Inc. will shortly
on of a new film, tenta-
"The Poverty Trap." The
at in addition to exposing
f the poverty industry, the
sent powerful examples to
ate initiative is offering
ns to the problems of the
ped and indigent."
h was founded in 1969
has two divisions, the
Institute and the Ocean
tute. The organization is
nown for another pro-
se film, "The Incredible
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ONENTS MOVE TO EL

ake of the assassination
esident Reagan, member-
ging at Handgun Control,
lations Reports notes that
onal advertising campaign
cal efforts in Los Angeles,
, Chicago, St. Louis, Nash-
and Cleveland have gener-
membership increases.
Control reportedly plans to
em to monitor legislation at
al. The group is also
a computerized program to
mbership response.

The **Southern Poverty Law Center** has begun a new project designed to monitor the activities of the Ku Klux Klan. Klanwatch will help finance "civil rights law suits to protect black citizens from Klan intimidation and violence," and will serve as "the nation's first and only Klan information center."

NEW NCPAC ACTIVITIES

The National Conservative Political Action Committee (NCPAC) is applying pressure on behalf of the Reagan tax-cut plan. According to Human Events, NCPAC is planning a direct mail and media campaign to ensure the passage of the program. The group is using local television to publicize the records of three key tax-cut opponents -- Representatives Jim Wright (D-TX), Jim Jones (D-OK) and Dan Rostenkowski (D-IL).

ACTIVISTS WATCH THE COURTS

The Committee for Public Justice is monitoring potential candidates for any Supreme Court vacancies that might arise. The Committee hopes to generate input from a wide variety of social activists, and is currently setting up files on possible Reagan appointees.

At the district and appellate levels, the **National Women's Political Caucus** is working to place in nomination the names of qualified women for 43 vacant positions.

TELEVISION DEBATE PROPOSED FOR PROGRAMMING ADVERSARIES

The Washington Post reports that Cable News Network president Ted Turner has invited top executives from the three commercial networks, the Moral Majority and the Coalition for Better TV (CBTV) to debate "morality in programming." CBTV is an umbrella group for 300 organizations currently monitoring program content. The effort may ultimately lead to a sponsor boycott.

> *We can't gai[illegible]y control over our paychecks [illegible]d our pocketbooks while we are forced to meet the ransom demands of the giant energy monopolies. The corporations and the elected officials must feel our anger.*
>
> —William Winpisinger, President
> Citizen/Labor Energy Coalition

Over the past few years, the Citizen/Labor Energy Coalition (C/LEC) has drawn the attention of many in the energy industry. C/LEC is an excellent example of recent attempts to form new alliances among labor, community activists and consumer groups. Although described by Mobil Corporation as a "letterhead" group, C/LEC currently counts over 200 organizations as members.

In April, 1978, representatives of 60 organizations met in Washington to explore ways to combat Jimmy Carter's energy program. The result was the formation of C/LEC, dedicated to a national energy policy "providing adequate energy to consumers at reasonable prices; providing increased employment opportunities; and stabilizing the national economy by developing energy self sufficiency through conservation and safe, non-inflationary, environmentally sound, alternative energy technologies." Machinists' President William Winpisinger was named President of C/LEC, and William Hutton of the National Council of Senior Citizens was elected Secretary-Treasurer.

The Midwest Academy's Heather Booth serves as C/LEC's Executive Director. Robert Brandon, formerly with Ralph Nader's Tax Reform Research Group, directs C/LEC's Washington office. C/LEC has six regional offices throughout the country, ten strong coalitions at the state level, and has increased its membership from 60 to over 200 organizations.

C/LEC represents a new form of citizen activism with great potential. C/LEC combines the financial and electoral resources of organized labor, the local pressure of community organizations, and the technical expertise of national interest groups to "meet, head on, the power of the oil companies and the utilities." The question of nuclear power, a potential sore point for labor members of the coalition, has thus far been effectively avoided.

An examination of the composition of C/LEC's Board of Directors reveals the unique nature of the coalition. The organizational affiliations include:

--Amalgamated Clothing and Textile Workers Union
--American Federation of State, County and Municipal Employees
--Campaign for Economic Democracy
--Carolina Action
--Citizens Action Coalition of Indiana
--Citizens Action League
--Consumer Energy Council of America
--Energy Action
--Illinois Public Action Council
--Massachusetts Fair Share
--National Clients Council
--National Council of La Raza
--National Education Association
--New Jersey Federation of Seniors
--Northern Plains Resource Council
--Ohio Public Interest Campaign
--Oil, Chemical, and Atomic Workers International Union
--Operation PUSH
--Public Citizen
--Rural America
--Service Employees International Union
--Sheet Metal Workers' International Association
--United Automobile Workers
--United Food and Commercial Workers International Union

Many of C/LEC's activities have been directed at the state level. During the 1978-79 winter and again the following year, C/LEC waged major campaigns against winter utility shut-offs. The coalition notes that this effort was ultimately successful in 13 states. C/LEC also successfully sought "lifeline" rates in Florida, Montana and Minnesota, and opposed fuel adjustment clauses in Massachusetts and California. During the past two years, C/LEC has conducted a major campaign in 10 states designed to "stop oil company tax avoidance and to return a portion of companies' excess profits to the state's taxpayers." (For details, see the April issue of Policy Networks.)

C/LEC has also been involved in national energy questions. The coalition's first project centered around its opposition to natural gas price deregulation. In 1979, C/LEC cooperated with Public Citizen's Tax Reform Research Group and the Energy Action Educational Foundation (EAEF) in a study claiming a substantial understatement of third quarter profits by the major oil companies. C/LEC and EAEF also contacted 34 television stations that aired controversial Mobil Corporation issue advertisements and sought equal time under the Fairness Doctrine. In 1980, the coalition participated in a lawsuit which blocked a Carter administration effort to impose a 10c per gallon tax on gasoline.

C/LEC is best known, however, as the sponsor of "Big Oil Day" in 1979. The "National Campaign for Fair Energy Prices" began with a work stoppage by the United Auto Workers on August 22nd, and culminated in a series of demonstrations across the country on October 17, 1979. Chapters of the National Council of Senior Citizens and union locals provided important support for C/LEC's organizing efforts. Although events in many cities did not attract the crowds that were expected, approximately 100,000 people in 100 cities participated in the day's events.

In conjunction with "Big Oil Day," C/LEC released a "Citizens' Energy Program." Among the provisions of C/LEC's program were:

—price controls on crude oil, heating oil, refined products and natural gas;
—a special prosecutor to investigate "price gouging; contrived shortages and other excesses contrary to law and the national interest";

--a national energy corporation;
--horizontal and vertical divestiture of the major oil companies;
--elimination of the oil depletion allowance;
--mandatory conservation standards; and
--a solar development bank.

It is difficult to assess the effectiveness of C/LEC at this time. Its efforts to secure energy price controls have been largely unsuccessful, and "Big Oil Day" did not create the groundswell of emotion that the leaders expected. In 1979, Heather Booth predicted the reimposition of price controls within two years due to: 1) Ted Kennedy's role in the 1980 Presidential campaign; 2) the "greed" of the oil companies; and 3) the ability of C/LEC to create a political environment favorable to price controls (In These Times, October 24, 1979).

At the state level, however, C/LEC has had a greater degree of success. The coalition will probably emphasize such activity in the future. This increased state emphasis is reflected in plans announced at C/LEC's Leadership Action Conference in November, 1980:

--a major state oil tax campaign;
--a massive drive for weatherization programs;
--ongoing utility rate reform activities around the country; and
--continued challenging of Big Oil's dominance of our energy future.

The Reference Shelf

•The Common Cause Guide to Money, Power and Politics in the 97th Congress lists political action committee contributions to 54 of the most powerful members of Congress — House and Senate leaders and committee chairmen. The Guide is available for $8.00 from Common Cause, 2030 M Street, N.W., Washington, DC 20036.

•"Interest groups consider them a valuable guide for their own members, if not for voters at large; political professionals find them useful in allocating campaign money and energy; lobbyists use them to plan and persuade." The motives and methodologies of interest group ratings are examined in "Congressional Rating Game is Hard to Win." See the March 21st issue of Congressional Quarterly, published by CQ, Inc., 1414 22nd Street, N.W., Washington, DC 20037.

•Since the Reagan Administration has come to town, the Washington spotlight has focused on a "young and feisty right-wing think tank" called the Heritage Foundation. Its Mandate for Leadership stands as a blueprint for conservative policy options. The secrets of the "Heritage formula" and its ultimate influence on the Administration are explored in "Reagan's Think Tank" in the April issue of Dun's Review. DR is published by Dun and Bradstreet Corporation, 666 5th Avenue, New York, NY 10103.

•Is mediation the answer? "Beyond Conflict — The Art of Environmental Mediation" discusses the techniques employed in negotiating solutions to environmental disputes. Organizations using mediation tactics and successful case studies are cited. The article appears in Sierra, published by the Sierra Club, 530 Bush Street, San Francisco, CA 94108.

STATEMENT OF HOWARD GIANOTTI

My name is Howard Gianotti residing at 28 Concord Lane, Wallingford, Connecticut.

I am a small businessman whose principal business is the development of multi-family residential units, a field in which I have had over 25 years of experience.

I appear today because I have been publicly accused by the New Haven Legal Services of operating a "prison camp" at the Woodview elderly complex in East Haven, Connecticut, a development in which I am a part owner.

I. Background of Woodview

Woodview is a 120 unit apartment complex designed and constructed for elderly and handicapped citizens. In order that such citizens could have the benefit of well-appointed accommodations without regard to income, rental subsidies for these units are available under Section 8 of the Federal Housing Acts. Further, the mortgage indebtedness attaching to Woodview is insured by the U.S. Department of Housing and Urban Development (HUD).

Construction on Woodview began in 1977 and it was occupied in June of 1978. Immediately it was recognized as a "model" development for the purposes set out in the federal legislation. Pictures of the complex were posted on the walls outside of the office of the Secretary of HUD; a strong letter of commendation was issued by the Regional Director of HUD; pictures and copy of the architectural and environmental excellence of the development appeared in trade journals including the Professional Builder and Concrete-Masonry Pictorial.

This recognition is perhaps the most complimentary that I have observed during the many years I have been involved as a participant in multi-family housing development with federally assisted projects, and this record encompasses 17 HUD assisted projects with an aggregate of 5000 units.

The presence of federal subsidies for rents and the federal mortgage insurance requires that the management practices of the owner-operators of Woodview are extensively regulated by HUD. I must report yearly by an audited statement as to income, expenditures, capital improvements and operating costs. Yearly we are inspected by the HUD management teams as to maintenance and management. Periodically we update our affirmative action and equal opportunity plan - the most recent being October, 1981. In all cases we have been approved as meeting HUD requirements as to the best of our ability. Never has there been a disapproval nor any criticism given as to this affirmative action matter.

As the management for Woodview, I have serious responsibilities to assure that there are rules and regulations consistent with HUD guidelines, and, from my extensive experience in the management of such housing, adapted to the needs of the particular development. In this respect a regular schedule of apartment inspections was set up, a dress code was formulated and actions to encourage tenant organization were taken.

I would assure the committee that such activities are required to maintain the quality of living in such apartment groupings and that management must be assiduous and consistent in insisting that tenants do comply. In the case of Woodview these activities have received the concurrence of the vast majority of tenants.

It should be noted that, as in any such complex, violations have been discovered or observed and actions taken to assure compliance. Inspections have on occasion revealed unsanitary and disorderly conditions which had to be rectified. The appearance of tenants in the public areas in night clothes has been objected to and therefore discouraged.

The currently functioning Tenants' Association represents approximately 90 to 95% of the tenants in residence at Woodview. This Association and Management have worked closely together to provide an environment that will give the elderly a sense of fulfillment and security and relief from loneliness which many tenants experience. Further, the Association also takes an active role in decisions concerning rules and regulations which govern Woodview.

II. Negative Impact of Legal Services Intervention

This mutually satisfying environment at Woodview was rudely disrupted by the intrusion of New Haven Legal Services.

In early April last year I received a phone call from a reporter from the New Haven Register, our daily newspaper, informing me that New Haven Legal Services was bringing a class action suit ostensively in the name of our tenants (in fact only six had requested the suit) against the management of Woodview seeking damages over $1,000,000 for alleged violations of their civil rights. Neither I nor my attorney had been served with any complaint and no such suit had at that point been filed in Federal District Court. The writ had been released to the newspapers prior to filing in court or service upon me.

The list of charges as detailed to me by the reporter was enormous, ranging from arbitrary imposition and enforcement of dress codes and other regulations to the denial of freedom of speech and the opportunity to live in an integrated and multicultural community.

This initial shock was followed by a banner headline in the next day's press: "Housing is called a 'prison camp'" (see Exhibit A).

To counteract this uncalled for assault on the way of life at Woodview and to help settle the anxiety felt by our residents, the Tenants' Association called a special meeting to discuss these developments and to ascertain where the tenants stood on these issues. Attorney Robert Solomon representing New Haven Legal Services was given the opportunity to speak to the group. However, the tenants were clearly disturbed by the outlandish allegations he attempted to push and voted resoundingly against joining any such action.

New Haven Legal Services followed this "rabble-rousing" performance with continuing activities to recruit other tenant complainants through efforts to form a separate tenant organization and distribution of misleading informational flyers about the progress of the suit (see Exhibit B). These printed materials were prepared and duplicated on government owned equipment and at government expense.

There have been a series of harassing actions by Legal Services after the suit was instituted. One blatant example is the occasion when the Legal Services attorney came on to Woodview premises with a video-tape camera and equipment without notifying management in an effort to force management to conduct an inspection of all plaintiffs' apartments with video-tape coverage. As a result the regular schedule of inspections was disrupted. Thereafter, one of the plaintiff tenants moved out and a subsequent inspection by the East Shore District Health Department found the apartment in such deplorable condition that complete renovation was required before re-renting that unit (see Exhibit C).

It is noteworthy that a major thrust of Legal Services' actions against Woodview was and continues to be that the management of Woodview rules supreme, arbitrarily developing and enforcing rules and regulations which it deems appropriate, harassing those tenants who do not comply and bend to its will.

The Tenants' Association, in an attempt to exhibit its support for Management, circulated a petition stating same (see Exhibit D).

The result was a total of 130 signatures, representing approximately 90-95% of the residents at Woodview, all expressing their satisfactiontion with Management. Legal Services' contention of arbitrary and overbearing management was, in fact, denounced along with all of Legal Services' other allegations by a former plaintiff who chose not to remain a part of the law suit (see Exhibit E).

The concern of the tenants as to these disruptive tactics resulted in a second petition circulated by the Tenants' Association expressing their concern and the actions they are prepared to undertake to eliminate the ongoing problem (see Exhibit F). Again, approximately 90% of the tenants expressed their concurrence with the statement contained in said petition.

Negative publicity has continued to be generated from this suit. A television affiliate of CBS carried a newscast wherein plaintiff tenants described the Tenants' Association and Management as "puppets and goons" respectively. The setting for such broadcast was the New Haven office of Legal Services. The television station, after protest by the Tenants' Association, agreed that this was so unfair that the station then granted equal time to contest these unfounded charges.

A paradox became apparent in the course of these events. The Tenants' Association feeling strongly that their interests should be protected, approached New Haven Legal Services for representation in this respect. This was refused based on a conflict of interests, (see Exhibit G) and the Tenants' Association was faced with the necessity of engaging counsel at considerable expense.

Here we see New Haven Legal Services' failure to adequately represent the broad spectrum of the poor, needy and elderly when it engages in this type of action - an action that in effect pits one group of the elderly against another and in this instance threatens the well-being of the majority.

Further negative impacts of New Haven Legal Services' action in this matter should be noted.

Woodview management has been required to expend over $50,000 to date to insure that a proper defense is made to those allegations. There have been a number of depositions, numerous motions and countermotions, interrogatories and sessions in court. It is estimated that approximately $125,000 might be needed to complete this litigation. These are funds which could and should be used for improvements at Woodview, e.g. an enlarged parking area to accomodate the needs of tenants and their visitors; coating of the building to preserve the surface and improve the hot water service. Now it appears the funds must be borrowed to make these improvements or such improvements must be foregone.

III. Legal Services Assertions as to Lack of a Multi-Cultural Environment

As noted above, Legal Services has emphasized in its Complaint the lack of an opportunity for Woodview tenants to live in an "integrated and multi-cultural community".

I would again stress that our management is strictly monitored by the U.S. Department of Housing and Urban Development as to its affirmative action efforts in the tenant application process. Woodview has always been found to be in compliance with HUD standards and as recently as October, 1981 our activities in this respect were approved by HUD's area Equal Opportunity Officer (see Exhibit H). HUD has never expressed any concern as to our best efforts to maintain compliance with its standards.

Thus, we have here an example of Legal Services disregarding the findings of a responsible federal agency and moving on its viewpoint of the situation to harass a small businessman-developer. There is no apparent attempt by Legal Services to encourage complaining tenants to seek administrative relief through the mechanisms carefully set up by HUD to correct problems of racial integration. Rather, we find sweeping generalizations designed to intimidate and case aspersions upon our management.

I believe we find another underlying motivation for these non-documented complaints as to a "lack of an integrated, multicultural environment", deprivation of "due Process rights" and denial of the "rights of free speech...". Although the statutes governing Legal Services prohibit it from taking fee generating cases, the Civil Rights Attorney's Fee Recovery Act allows a fee to be realized from the defendant in the event that a civil rights violation is asserted and proven in court. The attorney handling this matter for Legal Services has stated that if they win on just one of these points and even though damages might be only $1.00, they will be in a position to obtain a fee.

IV. Relationship of Woodview Case to Present Posture of Legal Services Corporation Concerning Federal Funding

On March 8th of this year this committee heard testimony from Dan J. Bradley, the President of the Legal Services Corporation, in which problems at New Haven and South Central Legal Services were highlighted.

Mr. Bradley decried the need to reduce staff and diminish services. New Haven Legal Services is being forced to neglect "life threatening" and "subsistance" legal problems. Next year New Haven will have "to turn away 10,000" deserving cases.

I have already indicated the extent of present and projected legal expenses that Woodview is incurring. Obviously this must in some measure be comparable to the staff time and expense being appropriated to this case by New Haven Legal Services. I have yet to attend a meeting concerning our case where there was less than two Legal Services representatives - individuals paid by government funds and, we observe, transporting themselves in GSA automobiles. I would also note that certain visits to complaining tenants and instigation of this matter was carried out by a Vista person.

Not only are direct federal funds available to New Haven Legal Services, but this group also receives a substantial complement of municipal "block grant" funds to maintain its operations. In this respect I would note that the City of New Haven is also proposing to grant an additional $150,000 to New Haven Legal Services for the purpose of purchasing a building - in spite of its declared lack of resources.

I must wonder how many really needy and deserving individuals are being denied legal assistance in order that Legal Services can continue to pursue this irresponsible action.

V. Conclusion

As you can observe, the actions of New Haven Legal Services have put a serious strain upon both the resources of Woodview and the social environment of our tenants.

Our Congressional representatives have been contacted on a regular basis by the Tenants' Association - and both Senators and our Congressmen have tried valiantly to achieve a resolution to this matter.

It is my hope in appearing here today and providing a recitation of the events and circumstances surrounding this case that appropriate steps might be taken to insure that federal funding going to Legal Services might be better focused, better monitored so that our citizens having real and immediate needs for legal help can have the use of these resources.

I would suggest that Legal Services be made accountable in more precise and effective ways as to those activities and legal actions which it initiates to be certain that the real purpose and intent of the federal legislation can be realized. Continued lack of accountability can only result in a series of legal actions which serve only to harass rather than ameliorate many more pressing social problems.

I wish to personally thank each of the members of this committee for their attention and the interest they have displayed in the matters I have discussed.

[CLERK'S NOTE.—A letter dated April 20, 1982, from Frank P. Palumbo, secretary, George Behler, president, and Thomas Rispoli, vice president, Woodview Tenants Association, East Haven, Conn., as part of Mr. Gianotti's statement has been retained in the subcommittee files.]

LETTER FROM EDWARD T. MARTIN, REGIONAL ADMINISTRATOR, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, BOSTON, MASS.

November 16, 1978

Mr. Howard Gianotti
Woodview
1270 North High Street
East Haven, Connecticut 06512

Dear Howie:

When I was in Washington a few days ago, I was pleased to see in the newest "HUD on the Job" display outside Secretary Harris' office pictures of Woodview and the ribbon-cutting by Governor Grasso and Mayor Proto. I have now received photos of that display, which I am happy to forward to you herewith.

Veteran HUD housing people who are familiar with the development of Woodview describe your fine apartment complex as one of the best they have seen. It was this assurance that prompted us to submit the Woodview photos to our Central Office as a "HUD on the Job" project from Region I.

Deputy Regional Administrator Harold Thompson joins me in highly commending you on the success of Woodview and in expressing the hope that it always will be a pleasant residence for elderly and handicapped persons. HUD is pleased to be associated with such excellent housing developments.

Sincerely,

Edward T. Martin

Edward T. Martin
Regional Administrator

EXHIBIT A

[NEWSPAPER ARTICLE—"HOUSING IS CALLED A 'PRISON' CAMP"]

By ANN DeMATTEO
Staff Reporter

Six residents and one former resident of an East Haven elderly housing complex are seeking a total $1.4 million in damages from the owner of the project in a class action lawsuit filed Monday in U.S. District Court.

The suit charges harassment, discrimination aginst minority and handicapped persons, vandalism and threats of physical abuse by the owner. The suit seeks $100,000 in compensatory and $100,000 in punitive damages for each of the seven plaintiffs.

4-6-81

The suit brought against Woodview Associates, Cuomo Associates and Howard Gianotti, owner of the Woodview Apartments at 1270 North High St., alleges Gianotti "generally managed Woodview Apartments in a manner more appropriate to a prison camp than a housing project."

The plaintiffs — Crescenzo and Louise Proto, Geraldine Magnuson, Viola Rubino, Joseph and Phyllis Gagliardi and Anthony Cosenza, a former tenant — say they represent present and future tenants at Woodview who won't speak out because they are afraid. About 160 elderly and handicapped people live in the complex.

The plaintiffs are represented by New Haven Legal Assistance Association, Inc. attorneys Robert A. Solomon and Jon Alander. A large number of claims were investigated by paralegal aide Andrea Lucibello when they were brought to the legal association's attention last fall.

(Please turn to page 2)

(Continued from page 1)

The suit lists events such as anonymous and threatening telephone calls, threats of eviction proceedings and destruction of personal property alleged to have taken place since the sprawling 120-unit complex opened in June 1978. Nearly 36 charges are listed against Gianotti and his management team in the suit.

"It is a broad-based attack on how Woodview is run," Solomon said.

In an interview Wednesday night, Gianotti, visibly upset by the charges, and his attorney, Robert S. Evans, declined comment on specific charges listed in the 17-page civil action.

Evans said it would be inappropriate and premature to answer the complaints before they are investigated fully and a response case is prepared by the defense for the court. He could not predict when it would be filed.

They said that Woodview, in its three years of operation, has won numerous awards for its design, amenities and services.

Solomon said he will ask U.S. Attorney Richard Blumenthal and the federal Department of Housing and Urban Development to investigate the alleged improprieties at Woodview, a federally-financed construction program under which tenants pay 25 percent of their incomes toward rent. The balance is paid to Gianotti by HUD, through the federal housing commissioner.

According to the suit, Gianotti "retaliated against plaintiffs' exercise of free speech by interferring with their right to organize, threatened and instituted retaliatory actions against those tenants who spoke out against him, established arbitrary rules including dress codes, discriminated against black, Hispanic and handicapped persons in the rental of housing, failed to provide services to plaintiffs for which he was paid by the federal government, harassed plaintiffs and vandalized their property, and threatened numerous plaintiffs with physical abuse."

The plaintiffs contend Gianotti told them of methods he used to keep blacks and Hispanics out of the project. Gianotti, Monday denied those charges and said he would welcome minorities into the building, but has not received any applications from blacks or Hispanics.

The court document states Gianotti met with Viola Rubino on numerous occasions throughout 1979 to instruct Rubino, then president of the tenant association, to tell residents to reduce their electricity use and sponsor a large gambling event, for example.

Recently, the plaintiffs allege they were required to contribute to a wedding reception and shower for the building superintendent.

4-7-81

The plaintiffs take exception to unannounced apartment inspections conducted by Gianotti, and "highly restrictive and unreasonable rules and regulations" such as levying fines on residents who wear slippers, robes or curlers in their hair in corridors, prohibiting residents from cooking food for guests, and preventing the carrier of The New Haven Register access to the building.

EXHIBIT B

[LEGAL SERVICES/COMPLAINANTS' FLYERS]

A Message To The Residents of Woodview

Please be advised that the Eviction Proceedings which Management attempted to bring against Chris Proto (Apt. 21H) have been withdrawn. Management chose not to actually take this illegal eviction attempt into court.

This is God's Great Victory, defeating an Evil Management.

We of the Action Committee have learned that some fanatics are trying to insist that the residents of Woodview refrain from speaking of this very important defeat, that Management has received, in this illegal eviction attempt. Nothing will silence us in regard to this matter. In this country we have such a wonderful right. That right is our Freedom of Speech. These fanatics representing Management will be curbed.

There will be instant changes regarding the Tenants Association. Officers of Stature in the Association will be those who are compassionate toward the needs of all the residents. The elderly and the sick will be justly represented. We of the Action Committee are not in fear of the moronic individuals, who till now. have been making it very unbearable and impossible for us to enjoy good healthy Community Living.

The Action Committee are not in fear. We now ask each and every one of you who wish the changes to take place, stand up and be counted. As the beginning of this message proves, you cannot be illegally evicted from Woodview if you have the guts to defend yourself. Should the need again warrant it, we have the strong Arm of the Federal and/or State Governments that will come to our aid.

To overcome the evil and unbearable conditions at Woodview, we ask you again, stand up and be counted. We can have many many happy people enjoying their residency here.

We of the Action Committee ask that you put your complete faith in us, join us, and we can assure you that together we will labor to all ends to make this complex a very good place for all of us to live.

In conclusion we ask you again, stand up and be counted.

Remaining,

The Woodview Action Committee

Woodview Organization for Fair and Better Living Conditions

Date: July 14, 1981

Time: 1:30 p.m.

* **Place:** Our Lady of Pompeii Church

* Please note change of location.

WOODVIEW ORGANIZATION FOR FAIR and BETTER LIVING CONDITIONS

WE WON !!!

IN MARCH 1981, WE BROUGHT A LAWSUIT AGAINST HOWARD GIANOTTI AND WOODVIEW ASSOCIATES THIS ACTION HAS ACCOMPLISHED THE FOLLOWING:

1. THE PURCHASE OF A STATION WAGON FOR TRIPS TO THE SENIOR CENTER, DOCTOR'S APPOINTMENTS AND SHOPPING.
2. SCHEDULING OF APARTMENT INSPECTIONS EVERY FOUR MONTHS (INSTEAD OF TWO) AT YOUR CHOICE OF TIME DAY.
3. ENTERING YOUR APARTMENT ONLY WHEN YOU'RE PRESENT.
4. ACQUIRING A WHEELCHAIR FOR ALL TENANTS TO USE.

WE HAVE SUCCEEDED IN GETTING THESE ITEMS ACCOMPLISHED BUT THERE'S STILL MORE TO BE DONE AND YOU CAN BE A PART OF IT.

MEETING

DATE: JULY 14, 1981

TIME: 1:30 p.m.

PLACE: EAST HAVEN SENIOR CENTER

Woodview Organization for Fair and Better Living Conditions

ATTENTION TENANTS OF WOODVIEW:

Woodview Organization for Fair and Better Living Conditions is a group of tenants living at Woodview who want to make it a better place to live. We have heard from many of you that you agree with what we are trying to do and support us in our efforts. However, many of you have said that you are afraid to publicly support us for fear of retaliation and losing your apartments. It is illegal for anyone to take retaliation against you for speaking up and asserting your rights. No one can evict you from your apartment for supporting us. We are still here and will remain here fighting for a better Woodview. We thank you for your support. If you want to talk to us about what can be done, you can call Chris Proto at 467-2617. All conversations will be kept confidential.

Rumors have been flying around Woodview that it's going to be sold, converted to condominiums and that everyone will lose their homes. This is not true. Under federal law, even if Woodview is sold it must remain federally subsidized housing and present tenants cannot be forced to leave.

Also, the law suit being brought against the present owners of Woodview is not over. It has only just begun. Victories such as less inspections, transportation, and stopped evictions have been won. More are on the way.

We have only just begun!

Signed: WOODVIEW ORGANIZATION FOR
FAIR AND BETTER LIVING
CONDITIONS

EXHIBIT C

[HEALTH DEPARTMENT INSPECTION REPORT]

November 12, 1981

Mr. Wayne Wright
Woodview
1270 North High St.
East Haven, Ct. 06512

Dear Mr. Wright:

On November 2, 1981 an inspection of apartment #214 was made. The unit had recently been vacated and left in a condition which makes it necessary for the management to complete the following items before renting again:

All carpets must be replaced as they are stained and there is a strong urine odor throughout.

Walls need to be painted

The kitchen and bathroom need thorough cleaning and disinfecting

It is unfortunate that a tenant would do so much damage. It is expected that all the problems will be corrected before the next tenant can move in.

Please contact this office if you have any turther questions.

Very truly yours,

Pamela Parise
Sanitarian

[Clerk's note.—Exhibit D (Tenants' Association first petition); exhibit E (Ex-complainants' withdrawal letter); and exhibit F (Tenants' Association second petition) have all been retained in the subcommittee files.]

EXHIBIT G

[LEGAL SERVICES' LETTER OF REFUSAL]

Date: 7-28-81

To: Ms. Germain
205 Church St Rm 426.
New Haven CT.
562-5750

This will introduce Mr. George Bellin (W.T. Asso) who came to this office for assistance with the following problem: White Tenants are disrupting the building (!)

We are referring this individual to your attention for possible assistance in this matter because:

____ We do not handle this type of problem.

_✓_ We cannot handle this problem because of a conflict of interest.

____ We cannot assist this individual because he/she is over income for our services.

____ We cannot handle this problem because it is fee producing.

____ We are unable to accept this case at this time because of excessive demand and program priorities.

____ We understand that you already represent this person in this matter.

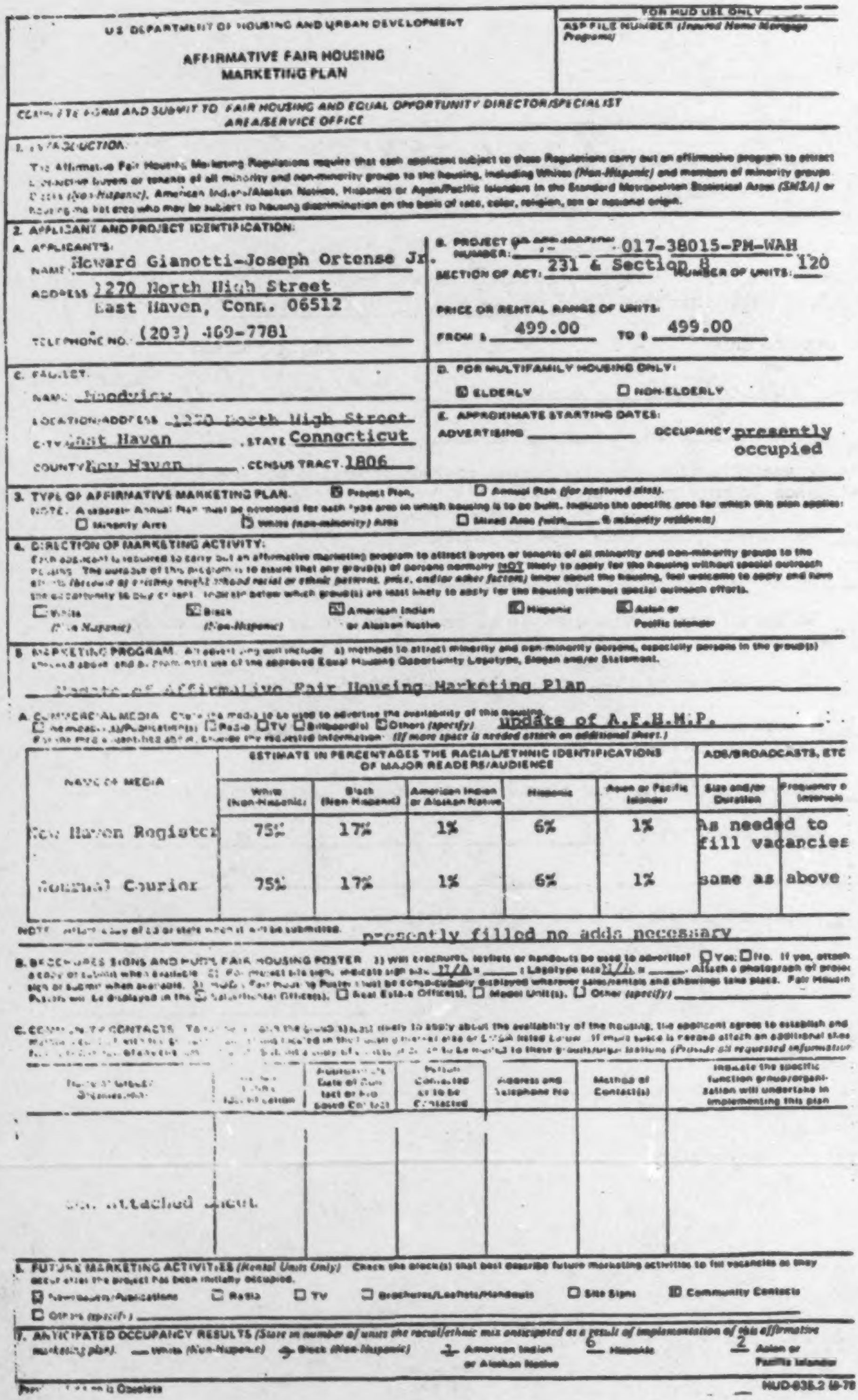
____ Other (specify) ____________________

✓___ Applicant is eligible for Legal Assistance.

From: M. Curtis

EXHIBIT H

[AFFIRMATIVE ACTION PLAN—APPROVED OCTOBER 1981]



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

AFFIRMATIVE FAIR HOUSING MARKETING PLAN

FOR HUD USE ONLY
ASP FILE NUMBER *(Insured Home Mortgage Programs)*

COMPLETE FORM AND SUBMIT TO: FAIR HOUSING AND EQUAL OPPORTUNITY DIRECTOR/SPECIALIST AREA/SERVICE OFFICE

1. INTRODUCTION:

The Affirmative Fair Housing Marketing Regulations require that each applicant subject to these Regulations carry out an affirmative program to attract prospective buyers or tenants of all minority and non-minority groups to the housing, including Whites *(Non-Hispanic)* and members of minority groups: Blacks *(Non-Hispanic)*, American Indians/Alaskan Natives, Hispanics or Asian/Pacific Islanders in the Standard Metropolitan Statistical Areas *(SMSA)* or housing market area who may be subject to housing discrimination on the basis of race, color, religion, sex or national origin.

2. APPLICANT AND PROJECT IDENTIFICATION:

A. APPLICANTS:
NAME: Howard Gianotti–Joseph Ortense Jr.
ADDRESS: 1270 North High Street
East Haven, Conn. 06512
TELEPHONE NO.: (203) 469-7781

B. PROJECT OR APPLICATION NUMBER: 017-38015-PM-WAH
SECTION OF ACT: 231 & Section 8
NUMBER OF UNITS: 120
PRICE OR RENTAL RANGE OF UNITS:
FROM $ 499.00 TO $ 499.00

C. PROJECT:
NAME: Woodview
LOCATION/ADDRESS: 1270 North High Street
CITY: East Haven, STATE: Connecticut
COUNTY: New Haven, CENSUS TRACT: 1806

D. FOR MULTIFAMILY HOUSING ONLY:
☒ ELDERLY ☐ NON-ELDERLY

E. APPROXIMATE STARTING DATES:
ADVERTISING ____ OCCUPANCY presently occupied

3. TYPE OF AFFIRMATIVE MARKETING PLAN. ☒ Project Plan, ☐ Annual Plan *(for scattered sites)*.
NOTE: A separate Annual Plan must be developed for each type area in which housing is to be built. Indicate the specific area for which this plan applies:
☐ Minority Area ☒ White *(non-minority)* Area ☐ Mixed Area *(with ____ % minority residents)*

4. DIRECTION OF MARKETING ACTIVITY:

Each applicant is required to carry out an affirmative marketing program to attract buyers or tenants of all minority and non-minority groups to the housing. The purpose of this program is to assure that any group(s) of persons normally NOT likely to apply for the housing without special outreach efforts *(because of existing neighborhood racial or ethnic patterns, price, and/or other factors)* know about the housing, feel welcome to apply and have the opportunity to buy or rent. Indicate below which group(s) are least likely to apply for the housing without special outreach efforts.

☐ White *(Non-Hispanic)* ☒ Black *(Non-Hispanic)* ☒ American Indian or Alaskan Native ☒ Hispanic ☒ Asian or Pacific Islander

5. MARKETING PROGRAM. All advertising will include: a) methods to attract minority and non-minority persons, especially persons in the group(s) checked above; and b) prominent use of the approved Equal Housing Opportunity Logotype, Slogan and/or Statement.

Update of Affirmative Fair Housing Marketing Plan

A. COMMERCIAL MEDIA. Check the media to be used to advertise the availability of this housing.
☐ Newspaper(s)/Publication(s) ☐ Radio ☐ TV ☐ Billboard(s) ☒ Others *(specify)* Update of A.F.H.M.P.
If the media is identified above, provide the requested information. *(If more space is needed attach an additional sheet.)*

NAME OF MEDIA	ESTIMATE IN PERCENTAGES THE RACIAL/ETHNIC IDENTIFICATIONS OF MAJOR READERS/AUDIENCE					ADS/BROADCASTS, ETC	
	White (Non-Hispanic)	Black (Non-Hispanic)	American Indian or Alaskan Native	Hispanic	Asian or Pacific Islander	Size and/or Duration	Frequency of Intervals
New Haven Register	75%	17%	1%	6%	1%	As needed to fill vacancies	
Journal Courier	75%	17%	1%	6%	1%	same as	above

NOTE: Attach a copy of ad or state when it will be submitted. presently filled no adds necessary

B. BROCHURES, SIGNS AND HUD'S FAIR HOUSING POSTER. 1) Will brochures, leaflets or handouts be used to advertise? ☐ Yes; ☐ No. If yes, attach a copy or submit when available. 2) For the project site sign, indicate sign size N/A x ____; Logotype size N/A x ____. Attach a photograph of project sign or submit when available. 3) HUD's Fair Housing Poster must be conspicuously displayed wherever sales/rentals and showings take place. Fair Housing Posters will be displayed in the ☐ Sales/Rental Office(s), ☐ Real Estate Office(s), ☐ Model Unit(s), ☐ Other *(specify)* ____

C. COMMUNITY CONTACTS. To further inform the group(s) least likely to apply about the availability of the housing, the applicant agrees to establish and maintain contact with the groups/organizations listed below that are located in the housing market area or SMSA listed below. If more space is needed attach an additional sheet. [illegible] *(Provide all requested information.)*

Name of Group/Organization	Racial/Ethnic Identification	Approximate Date of Contact or Proposed Contact	Person Contacted or to be Contacted	Address and Telephone No.	Method of Contact(s)	Indicate the specific function group/organization will undertake in implementing this plan
See attached sheet						

6. FUTURE MARKETING ACTIVITIES *(Rental Units Only)* Check the block(s) that best describe future marketing activities to fill vacancies as they occur after the project has been initially occupied.
☒ Newspapers/Publications ☐ Radio ☐ TV ☐ Brochures/Leaflets/Handouts ☐ Site Signs ☒ Community Contacts
☐ Others *(specify)* ____

7. ANTICIPATED OCCUPANCY RESULTS *(State in number of units the racial/ethnic mix anticipated as a result of implementation of this affirmative marketing plan).* ____ White *(Non-Hispanic)* [illegible] Black *(Non-Hispanic)* 1 American Indian or Alaskan Native 6 Hispanic 2 Asian or Pacific Islander

Previous Edition is Obsolete HUD-935.2 (8-78)

8. STAFFING AND EXPERIENCE

(Give the information requested in the table below for your organization (Developer/Sponsor) and for the other companies/organizations identified, if applicable. Provide total staff figures, i.e., do not limit staffing to those staff persons connected with or working on this housing. NOTE: HUD-Field Office must be notified of any changes in the companies named in this chart.)

Name of Company, Address and Telephone No.	Job Classification		STAFFING: Present: Total	White (Non-Hispanic)	Black (Non-Hispanic)	American Indian or Alaskan Native	Hispanic	Asian or Pacific Islander	Anticipated: Vacancies	Date of 1st Job Opening	Recruitment steps taken or to be taken to attract all persons	Company's last two experiences with these persons least likely to apply for jobs/housing in (state name of the area of the housing) — Housing	Jobs
A. Developer/Sponsor Woodview Associates 1270 North High St. East Haven, Ct. (203) 469-7781	Prof.	M	2	2								Manage only this developme	
		F											
	Other	M											
		F											
B. Advertising (Answer if different from A)	Prof.	M											
		F											
	Other	M											
		F											
C. Management and Sales/Rental Staff (Answer if different from A and/or B)	Prof.	M	2	1		1					If staff is to be increas community contacts as lis in plan will be called upon for assistance.		
		F											
	Other	M											
		F											

9. STAFF INSTRUCTIONS

Fair Housing Training. All persons engaged in the sales/rental of real property have to be instructed periodically to insure that they are aware and knowledgeable of Fair Housing requirements.

A. Are regular sales/rental staff meetings conducted? ☒ Yes, when? 6 months ☐ No.
If yes, is Fair Housing training provided to the sales/rental staff at that meeting? ☒ Yes; ☐ No.

B. If you answered "no" for either of the questions in item 9A, when is Fair Housing training provided to the sales/rental staff?
N/A

C. Is a copy of the instructions used or proposed to be used for training sales/rental staff in Fair Housing attached to this plan? ☐ Yes. ☐ No; indicate when information will be submitted refer to 9D

D. Do the instructions include and relate to local, State and Federal Fair Housing Laws, including Executive Order 11063, the Civil Rights Act of 1968 and this Affirmative Marketing Plan? ☐ Yes. ☐ No; explain. All items mentioned in 9D will be part of training given to staff. Howard Gianotti will be in charge of training

10. ADDITIONAL CONSIDERATIONS

Other Efforts. Please describe other efforts you plan, as part of your outreach program, to attract persons in those groups that you have designated least likely to apply for housing in the project under consideration, that are not covered elsewhere in this plan. Efforts to attract female-headed households should be employed.
We will contact persons by phone. As you know in elderly housing a great percentage are headed by females.

11. The applicant agrees to make any changes in a plan covering a multifamily project, which may reasonably be required, after initial rent-up to assure continued compliance with Section 200.620 of HUD's Affirmative Fair Housing Marketing Regulations.

FOR HUD USE ONLY		SIGNATURE OF PERSON SUBMITTING PLAN
APPROVAL BY SIGNATURE	DISAPPROVAL BY SIGNATURE	Howard Gianotti
NAME (Type or print) ANK H. BUNTIN DIRECTO R HOUSING & EQUAL OPPORTUNITY	NAME (Type or print)	NAME (Type or print) Howard Gianotti
TITLE QUAL OPPORTUNITY VED X DISAPPROVED	TITLE	TITLE AND COMPANY Owner - Woodview Associates
DATE 10/19/81	DATE	DATE 10/19/81

Name of Group/Organization	Racial Ethnic Identification	Approximate Date of Contact	Person to be Contacted	Address Telephone No.
Junta for Progressive Action	Hispanic	as needed to fill vacancies	Anna Medina	690 Howard Av. New Haven, Ct. (203) 865-7901
Centro san Jose	Hispanic	"	Hudson Richard	290 Grand Ave New Haven, Ct (203) 562-3135
Urban League	Black	"	Rubin Taylor	1184 Chapel St. New Haven, Ct. (203) 624-4168
Dixwell Senior Center	Black	"	Margaret Twohill	114 Bristol Street New Haven, Ct (203) 787-8541

Method of Contact	Indicate the specific function Group/Organization will undertake in implementing this plan
Phone	Group will try to find us a qualified applicant.

[CLERK'S NOTE.—Subsequent to the outside witness hearing, the following letter was received regarding Mr. Gianotti.]

April 28, 1982

Hon. Lowell Weicker, Jr.
Chairman
Subcommittee on State, Justice, Commerce,
the Judiciary and Related Agencies
Room S-146-A U.S. Capitol
Washington, D.C. 20510

Dear Senator:

I appreciate having had the opportunity to submit my statement at your hearing this morning.

Inasmuch as you were pressed for time and did not wish to enter into a dialogue with me, I hope you will consider one point which I would have raised as a commentary on Mr. Gianotti's presentation. Specifically, the reason why abuses occur as frequently as they do in Legal Services Corporation funded programs is that, very simply, there is no economic constraint or accountability on the behavior of the attorneys.

One option to impose such accountability is stringent regulation. Personally, I do not think that will work. That is why I favor eliminating the Corporation and replacing it with a client-accountable, free market-oriented approach, wherein the power of purchase is vested not in the providers of legal services, but in the consumers thereof.

I recognize that you have been a strong supporter of the Corporation, but I hope you will consider this observation with an open mind.

With personal best wishes, I am

Sincerely,

Howard

Howard Phillips
National Director

STATEMENTS OF:

HON. STEPHEN SACHS, ATTORNEY GENERAL STATE OF MARYLAND
DAVID R. BRINK, PRESIDENT, AMERICAN BAR ASSOCIATION

Senator WEICKER. The next panel consists of Stephen Sachs, attorney general State of Maryland; Hugh Scott, Advocates for Legal Services; and David Brink, president of the American Bar Association. If those gentlemen will be seated.

Steve, I have said hello to you. Is Hugh in the outer office? Is Hugh around?

Why don't you proceed any way that you want. Steve indicates, Mr. Brink, that you might proceed first, so go right ahead.

Let me say at the outset what I have said many times in public and on the floor of the Senate that I think you have brought a very special courage and integrity to the position that you hold as president of the American Bar Association. I have so stated publicly.

Mr. BRINK. Thank you, sir.

Senator WEICKER. Proceed.

Mr. BRINK. Mr. Chairman and members of the subcommittee, I am David R. Brink, a practicing attorney from Minneapolis, and I am the current president of the American Bar Association.

I remind all of us, if we need any reminder, that May 1 is Law Day. It is the 25th anniversary of Law Day. Its theme is "A generation of progress." I think we have special occasion to celebrate a generation of enormous progress where the American ideal is engraved above the portal in the U.S. Supreme Court, "Equal justice under law."

This committee, the Senate, and the entire Congress contributed in large measure to that progress. They passed the Civil Rights Act of 1964, they enacted and expanded the Voting Rights Act of 1965, but more than that, and in this connection, you have proclaimed legal services to all our citizens, poor as well as rich, as a national goal and a public responsibility as much as public health or public education, where you established and funded the Office of Equal Opportunity, legal services and later, of course, the Legal Services Corporation, to make that goal and that responsibility a reality.

Finally, last year you resisted during a time of economic stringency the call to turn your backs on the legal needs of the poor. That call comes again, and I hope that you will again ignore it and fund this finest of national approaches to making every citizen equal before the law.

There are those who would say that a generation of progress under the rule of laws are not. They say that we must not expend our national funds on welfare or charity, but when we deliver legal services to the poor, we do not give them welfare or charity, we do no more than return to them what is theirs already as Americans, their rights: rights to remedies, rights to justice, and rights to counsel.

Then there are those who say that the Legal Services Corporation is a political instrumentality that has been used to achieve undesirable social engineering.

The facts are that services are delivered locally, but local programs must be authorized by the Board of the Corporation and that the Board is composed of individuals appointed by the President of the United States who are now, in this case, undergoing the confirmation process in this Senate.

I also repeat what this committee knows: That the vast bulk of services have been rendered one on one to relieve poor persons of their routine problems in the fields of divorce law, credit/debtor law, landlord and tenant law, and legitimate claims to fair treatment from State and local agencies.

The so-called horror stories arise and we hear many of them—but on investigation usually prove to be without foundation. We can't throw the baby out with the bath water and abandon the program. Certainly, the program has been run with extraordinary efficiency and at very low overhead.

There are also those who believe that State or local government or the legal profession itself can carry the whole burden of delivery of legal services to the poor. State and local governments in many cases have neither the funds, the experience nor the inclination to provide legal services, and some of them see legal services programs as potential enemies.

Our profession, perhaps more than any other group in our society or so we like to think, has, perhaps, the longest tradition of rendering unpaid volunteer services to the public, and in the ABA we are currently spending much of our own money to fill the void that already exists due to cutbacks in funding and to inflation, and to stimulate additional local pro bono services. It has been very successful.

State and local bars have responded by making this one of their highest priorities and making some heroic efforts.

Yet statistics show—and we have some examples in our written testimony—that it is clear that volunteers alone cannot provide all that is needed in staffing and training, client intake, quality control, case supervision, and the like. Professionals are needed.

We cannot do it all any more than physicians can pay all medical costs of the poor or grocers pay the costs of feeding all the hungry. If we are to maintain the progress of the past generation toward equal justice under law, there is only one answer to us: That is that we should, again, fund the Legal Services Corporation at a substantial level. The current level is only, I believe, about one-three hundredth of 1 percent of the total budget. Surely there should be a place within that. We respectfully urge that of this committee.

Senator WEICKER. Speaking for myself, I can assure you it will be my intention to take the matter for funding to the full committee and to try to get the moneys for funding.

I think the point that should be made here is that in the sense that the legal profession is going to do its volunteer thing, that is fine; but as you have indicated, and I think properly so, there is no way that they can cover all the needs out there.

So without a program like this, what happens? That is the question. What happens?

Mr. BRINK. We still have unmet needs on the part of the poor. Even with legal services at its heyday, it was estimated that we were meeting perhaps 20 percent of the total need. Figures show that that is already dropping off and in spite of, as I say, quite heroic efforts in many bar associations to find bodies to contribute work, the total number of cases that can be handled is still below what it was at its heyday, and there are many needs out there remaining.

Senator WEICKER. And then, of course, there is the problem outside of that applied by the bar assocation, outside of needs being unmet, which is people taking matters into their own hands and going out into the streets. That is a very painful process and, I might add, a very expensive process.

Mr. BRINK. And very disruptive to society and breeds its own set of problems like a breeder reactor.

Senator WEICKER. Thank you very, very much, Mr. Brink.

Steve, another old friend from earlier and very difficult days, it is nice to have you here. I notice you have done good things as to how you conduct the Office of the Attorney General over there in Maryland.

STATEMENT OF STEVE SACHS

Mr. SACHS. Thank you, Senator.

You recognize the claims of elected office, don't you, Senator?

Senator WEICKER. Yes.

Mr. SACHS. It might be asked why the attorney general of a State, which is not frequently the recipient, like Mr. Gianotti, of suits by legal aid and legal services, should appear to support its budget request, and, indeed, to suggest that its budget request is too modest and that the needs are really much greater than the President even contemplated.

I do it, of course, because while we sometimes disagree with the merits of a lawsuit brought by legal aid, while they are sometimes wrong in the sense that they don't prevail in a given case, they are often, however, right, and in any case, the system requires the adversary system that we are so proud of in this country. It absolutely requires, in order for it to be in balance, that some 30 million Americans who are defined as impoverished have effective legal advocates. Anyone, it seems to me, who wants the system of justice in this country to work properly ought to support that concept.

The fact of the matter is, as has been commented, the overwhelming majority of the funds that have supported legal services in the past were directed to make possible, as Mr. Brink said, one on one delivery of legal services to these poor Americans. We are talking about custody of children, we are talking about divorce, we are talking about eviction, we are talking abut a claim for a disability allowance that the bureaucrat failed to award, especially for the poor who live in the unremitting bleakness of poverty.

These life crises are so enormously threatening. Few of us, I assure you, Senator, faced with analogous problems in our lives would begin to think of facing them uncounseled. Yet what we are saying is with the budget request, we are delivering those legal services on a one on one level at the rate of about 1 lawyer for every 10,000 clients.

If that were all that were involved, it would be enough to support this budget request, but second, Mr. Chairman, I think we have here a question of what I choose to call law enforcement. We depend, in this country, for the enforcement of our civil laws on private litigation. Corporations know that when they go to court to enforce what they think their legal rights are with respect to the environment or with respect to other laws which the Congress of this legislature has passed.

Unions know it when they go to court to enforce what they think their legal rights are with respect to legislation that has been passed. We subsidized by tax deductions for business expenses the fees paid lawyers by corporate America and by union America and by others who have the need for lawyers to go to court, or administrative agencies, to enforce what they see as their legal rights.

Not to acknowledge that the poor, who have legal problems, too, have a stake in enforcing the law with respect to them is, it seems to me, tremendously unfair and unequal. Some examples in my State, alone, I want to share with you, offices in the enforcement of the law, laws passed by the Congress of the United States, laws passed by our legislature, with respect to the rights of the poor. Legal services lawyers in Maryland, for example, filed a lawsuit which regained unemployment compensation for some 24,000 Marylanders whose benefits were reduced because of an erroneous interpretation of law by a State agency.

Another suit restored medicaid services to 188,000 Marylanders, mostly elderly and children, whose aid was improperly terminated. On and on goes the list. I recite them in the statement, and I won't belabor you with them now, Mr. Chairman, but the list of law enforcement successes in this country prides itself on the use of law and the list of law enforcement successes publicly funded on behalf of the poor is a long and honorable one that I think has benefited all of us.

Finally, Mr. Chairman, I want to make the observation that has been often noted, in this country courts decide so much. It was said first and it has been said in every generation that every social, every legal problem, at one time or another, every social/political problem at one time or another becomes kind of a legal problem to be decided by the courts. Courts truly are a part of the Government of this Nation.

To say to 30 million people that they have no stake in that, is to say that they have no access to that, is to say they can't come and bring their cases and their legal claims to courtrooms; in a very real sense, to disenfranchise those people. That gap, that need is filled, at least in part, by the legal services efforts that the Congress has authorized, and it has had bipartisan support until just recently.

I can't resist, in conclusion, Senator Weicker, this observation: It is no secret that this administration has seriously opposed and significantly opposed the continuation of this program. In my judgment, there is really no stain, no stain on the record of the Reagan administration that is uglier than its attempt to kill the Legal Services Corporation. From its first days in office, the administration has sought to cut off the organization's appropriations, for Congress to starve its fund. It has now nominated a new governing board for the Corporation, whose commitment to the goal for providing quality legal representation to poor Americans appears to be, to put it very charitably, extremely doubtful. These efforts, in my judgment, are different in kind from other administration measures which are gutting programs for American's poor.

Legal services is not just another program, it is the very process by which millions of people can assert their legal rights, including their rights to challenge the legal and constitutional basis of this administration's actions. To cripple or destroy programs which feed and house and educate and heal the Nation's poor is bad enough, but this administration, by seeking to ration justice as well, would strip its critics of the means to fight back.

In my judgment, Mr. Chairman, that tactic is familiar and terribly unfair. In sporting arenas it is called hitting and holding, and on the streets it is called mugging.

Thank you very much, Mr. Chairman, for the opportunity to appear before you.

Senator WEICKER. Thank you very much.

I must confess that I am in total agreement with the testimony given by you and Mr. Brink. Let me say this: I think you do a great honor both to our constitutional system and to your profession by appearing here and saying these things. Too much of the time people think we are talking about a crazy group out there, so it has nothing to lose and the Government supports the program to finance their own idiosyncrasies.

Both of you gentlemen represent the pinnacle of success insofar as the positions you hold within the legal profession. If you are "the establishment"——

Mr. SACHS. The greedy establishment at least, I think. [Laughter.]

Senator WEICKER. To hear you step up off the bat on behalf of the less fortunate, I think, does honor to both of you. Let me say this also speaking from my point.

When it comes to the enforcement—the reason why the courts are so important—I think it has been well dramatized within our lifetimes, within these past several months, why the courts are necessary. Let me assure you that the rights of Americans, those rights that are tough to stand up for, are not going to be defended or preserved by a group of politicians in whatever the legislative body. That is not only history, that is present day fact. No one knows it better than this chairman. I wish this was not the case, but, indeed, I point this out to all the citizens of this country. They could be impoverished persons in a housing unit, it may be black school children—but what we are talking about is rights of businessmen, the rights or professionals, the rights of old people, retarded people, it is all of our rights. This is not a problem of the poor, this is an American problem. Unfortunately, we can't pick our day when all of a sudden it is our ox that is going to be gored. It just doesn't work that way. We can't pick and choose it. I know that when my day comes, I want to make sure that I have everything working on my behalf that was intended to be there insofar as our constitutional system is concerned.

I thank you both for appearing here. I believe your comments carry great, great weight. I wish all of America could hear it.

Mr. SACHS. Thank you, Mr. Chairman.

PREPARED STATEMENTS

Senator WEICKER. We will place all the statements you have submitted in the record.

[The statements follow:]

STATEMENT OF DAVID R. BRINK

I am David R. Brink, a practicing attorney from Minneapolis and the current President of the American Bar Association. Few subjects are of greater interest and concern to our Association and to the organized bar nationally than the one your Subcommittee is addressing today -- the continuation of funding for the federal Legal Services Corporation.

Three days from now, the nation will celebrate the twenty-fifth anniversary of Law Day U.S.A. I had the good fortune to be invited to the White House recently for the signing by President Reagan of the 1982 Law Day proclamation. He began his proclamation with this statement:

> "The United States serves the world as a model of representative democracy, individual freedom and equal justice for all. These three goals of our Nation, guaranteed by the Constitution and the Bill of Rights and guarded by the dedication of our people, ensure that the United States will continue to be a beacon of liberty to oppressed people around the globe."

We subscribe wholeheartedly to the President's sentiments. We believe that justice is the cornerstone of our democratic system and that our nation's image will be shaped in large part by our ability to fulfill the goal of equal justice for all.

Seventeen years ago, several national figures in the legal profession, including the ABA's then-President, Justice Lewis Powell, concluded that our nation was not meeting this goal and that further efforts were needed. The federal legal services program was established that year. In 1974, Congress and President Nixon agreed to give the program greater permanence and independence by creating the Legal Services Corporation. Through the vigorous leadership of such Members of Congress as the Chairman and several members of this Subcommittee, the program has been improved and refined each year.

The Legal Services Corporation is, in our view, an exemplary program. At a cost of well under $10 per poor person, it is supplying high quality legal services to the nation's neediest

. ' izens. In doing so, it demonstrates to these citizens that, through traditional legal processes and institutions, their rights will be enforced and wrongs committed against them will be redressed. It thereby instills in these citizens confidence in our democratic system of government. And it ensures all of us, rich and poor alike, that we live in a country in which all citizens are treated equally before the law.

We believe that access to the justice system for the poor is a public obligation and a national responsibility. This is not a program providing charity or social welfare. It is a program which seeks to ensure rights -- rights to justice, rights to remedies, rights to counsel. The costs to society will be far greater in the long run if we do not ensure enforcement of these rights.

Nonetheless, some voices have called for the elimination of the Legal Services Corporation. These individuals have claimed that the Corporation is not serving the legal needs of the poor but rather is engaged in cause-oriented "social engineering" activities. The American Bar Association has monitored this program throughout its existence and believes there is little if any valid evidence to support this perception. It seems obvious that out of 1.5 million cases per year, there will be a small percentage that deal with sensitive and controversial issues of social policy and which may therefore be subject to the charge that they are examples of social engineering. But from our perspective, legal services attorneys would be falling far short of their ethical responsibilities under the Code of Professional Responsibility and of their responsibilities under the statute which created the Corporation if they did not seek to represent their clients vigorously and to the best of their professional judgment and ability.

It is significant to us, that, year after year, charges have been raised that legal services attorneys have greatly exceeded the mandate provided by Congress and that, year after year, these charges, when carefully analyzed, have been found to be without foundation. The charges have either not been supported by the facts of the cases, or have described cases in which legal services attorneys have complied fully with the statute but have achieved results which are not favored by certain parties.

The facts of the situation are these: the Corporation-funded programs provide routine legal services to the nation's poor at extremely low cost. I say "routine" from the perspective of the lawyer involved -- the bulk of the cases involve landlord-tenant disputes, family rights matters, consumer finance cases, and the like. But to the clients -- the persons for whom this program was created and whom its is intended to serve -- these "routine" matters may make the difference between a life of despair and one of hope. It is interesting to us that the clients are not raising cries that their legal needs are not being met because program attorneys are engaged in social activism. The clients have a substantial voice in the priority-setting process of each local legal services program, and the local programs' caseloads reflect the clients needs and desires.

It is has also been argued that the Corporation should be turned into a block-grant program. The initial proposals to block-grant legal services provided that legal services be one of forty-one federal programs placed in a social services block grant. Some portion of the existing funding of forty of the programs was to have been folded into the block grant. Only the Legal Services Corporation was to have been included in the block grant without any funding. The message to the states would have been clear: this program, from a federal perspective, is the lowest priority for use of the very limited block grant funds.

Later suggestions would have put $100 million into the block grant pot as the legal services "contribution" to the fund. Each state, of course, would have been free to allocate the funds among the forty-odd programs and to provide no funding to individual programs if the state so chose. Most of the other programs included in the block grants are ones for which the states have acknowledged some responsibility in the past; in most cases, there exist state agencies which administer not only the federal monies but also state appropriations. The federal funds have been supplements to existing state government activities. Legal services, on the other hand, has not had a state agency "home" in any of the states but rather has been the province of independent not-for-profit corporations. The states, in fact, have provided less than 1% of legal services funding in the past and have shown no inclination to increase this funding in the future. It is unrealistic to think that the states would use block grant monies to fund independent corporations they have not previously funded by taking the money from their own agencies and bureaus.

The states also have a serious political problem in funding legal services. The legal problems of the poor frequently involve conflicts with state officials and agencies over housing, medical care, food and the like. The poor in this country are probably the most regulated and bureaucratized segment of our population. Legal actions against state government officials are sometimes unavoidable. State governments cannot, in most states, be expected to enthusiastically fund legal services for persons who may ultimately sue the state.

Finally, the block-grant idea would be inefficient. Instead of the one national body which administers legal services funds, there would have to be a separate administrative agency in each state to administer the funds. The Corporation's budget proposal for FY 1983 provides for only 1.9% of its funds to be used for national office administration. It is inconceivable to us that fifty separate agencies in the states could do the same work at less cost.

Substantial majorities of both houses of Congress last year rejected both the charges of social engineering and the block grant recommendations and voted to continue the program at at substantial, if considerably diminished, funding level. This year opponents of the Corporation have suggested that the burden of supplying the legal needs of the poor should lie solely on the shoulders of the legal profession. Let me offer a few comments on this proposition.

First, an historical one. The private bar has been involved in supplying free legal services to the poor for over one hundred years, both on an individual basis and through organized legal aid societies. We have had an Association committee for the last sixty-two years the principal purpose of which has been to foster the growth of legal aid. And yet we and the nation's political leaders concluded in 1965 that the very substantial legal needs of the poor were not, and could not, be met by such an entirely voluntary system.

Second, I am proud of the substantial contributions which countless lawyers in this country have made over the years toward meeting the legal needs of the poor. I believe the legal profession stands very high among professional groups in our society in terms of contributing professional services to the poor. I also believe, however, that the profession's historic and continuing willingness to provide such services should not be used as a basis for denying a public responsibility to share in meeting the need and in making the justice system work for all citizens.

Third, there is no evidence that the existence of the Corporation has diminished the extent of private bar contribution of legal services to the poor. On the contrary, it is our belief that the Corporation's existence has encouraged and facilitated private bar involvement by providing an organized mechanism for matching needy clients with attorneys who have volunteered to contribute their services.

Fourth, even with this combined partnership between public and private efforts, we are meeting only a portion of the legal needs of the poor. Clients are turned away at legal aid programs everywhere in the country because there is insufficient personnel to handle all types of cases and all client needs. The requirement of the local priority-setting process, mandated by Congress several years ago, reflects the fact that resources are insufficient to meet all needs. That was true at the high-water mark of Corporation funding -- $321 million in FY '81 -- and is all the more true today with funding having been diminished by 25% (or substantially more when inflation is considered).

Fifth, regardless of the amount of legal services volunteer lawyers contribute, these contributions will never be able to meet all the need. There will always be a need for a core staff of professional specialists skilled in the unique legal problems of the poor. Funding will be needed to provide training to the private bar in poverty law; to fund a core staff office specialized in poverty law; and to provide for client intake, preliminary case diagnosis, case referral, case and docket supervision, quality control, and evaluation.

As I indicated at the outset, the organized bar nationally has shown enormous interest in this problem. Last year, on very short notice and at their own expense, over 100 bar leaders from all across the country came to Washington on April 1 to voice their concern about the proposed elimination of the Corporation -- a response unprecedented in the history of the bar. Over 400 state and local bar associations adopted resolutions of support for the Corporation and communicated those to their congressional representatives.

But perhaps of greatest importance has been the willingness of bar associations and individual lawyers to redouble their efforts to meet the legal needs of the poor. At the national level, the ABA last year made grants totalling over $140,000 to state and local bar groups to permit them to establish components to encourage private lawyers to provide pro bono legal services and to match the attorneys with needy clients. This year, we have held three regional conferences to provide technical information and assistance to state and local bars on how the private bar can most effectively deliver legal services to the poor. Representatives of 162 bars attended these conferences, and a total of 366 persons participated. For the coming year, our Board of Governors has just voted to set aside more than $300,000 for projects designed to foster the growth of greater private attorney involvement in the delivery of legal services to the poor.

There are many examples which I could relate of significant initiatives already undertaken by state and local bar groups, and I will cite just a few. In nearby Montgomery County, Maryland, the county bar association pledged earlier this year to provide 16 hours of pro bono legal services daily -- roughly the equivalent of the services of two full-time attorneys -- to offset, in part, federal cutbacks to the local legal aid program.

The Kansas City (MO) Bar Association has begun a pro bono project in conjunction with Legal Aid of Western Missouri. The bar is hopeful that its members will be able to serve 1000 needy clients each year. It is significant to note, however, that even with this sizeable contribution of private attorney time, the client community will receive fewer services. In 1981, the Legal Aid program served 5000 clients; due to federal funding cutbacks, it expects to be able to serve fewer than 3500 people this year.

A similar situation exists in Indianapolis, where 3000 clients were served by the local legal aid program in 1981. Cutbacks in funding and inflation will likely reduce the total to about 2100. The local bar has solicited volunteer attorneys to contribute services, and the bar estimates that it will be able to handle between 250 and 500 cases a year.

In my own State of Minnesota, a pro bono program has been started in Duluth. Last year, the legal aid program handled roughly 2500 cases. This year, with cutbacks, it hopes to handle 1650. The local bar has recruited 117 attorneys -- 25% of the bar membership -- and is asking each of these attorneys to take about three cases a year, or a total of about 350 cases. Again, despite this strong effort, there will be a considerable shortfall from last year's levels. As I indicated above, even at last year's levels clients were being turned away. In Duluth, for example, there is a waiting list of over 200 persons seeking to get divorces.

Another factor is worthy of mention. Caseload demand last year is likely to be considerably increased this year as a result of the problems of the economy. Unemployment is now up over 13% in Duluth, and it has reached much higher levels in other areas. Unemployment means more people are going to slip into the poverty category. It also means these people are likely to encounter serious financial and legal problems in the months ahead. The need for legal services will be greater and the supply, sadly, diminished.

We are well aware that the economic situation nationally is creating great needs on a number of fronts and that the pressures to cut federal spending are simultaneously very great. We believe, however, that the Legal Services Corporation addresses needs which are so basic to our democratic system of government that they cannot be ignored. We believe, frankly, that any level of funding below $300 million is inadequate to provide for the legal needs of the nation's poor. We realize, however, that such a level of funding is currently impractical. The Corporation's request of $265 million, or 10% above FY '82 levels, is a very responsible request in the present situation, and we endorse it.

We thank you for your strong support of this vital program in the past and urge you to continue your support and leadership in the future.

STATEMENT OF STEPHEN H. SACHS

My name is Stephen H. Sachs. For the past three and a half years, I have been Attorney General of the State of Maryland. I have been a lawyer for over 20 years and have spent half my professional career in public law enforcement as an Assistant United States Attorney for Maryland (1961-1964), United States Attorney for Maryland (1967-1970) and Attorney General. In the intervening years, I have practiced law privately in Baltimore specializing in litigation.

I appear before the Subcommittee today in support of the funding request of the Legal Services Corporation. I believe that the healthy and effective functioning of the Legal Services program is indispensable to the fair administration of justice in this country. And I believe that this Administration's continuing efforts to cripple the program are terribly wrong-headed---and profoundly unfair.

The poor have legal problems. Big ones. Even their "routine" encounters with the law---injury at work, eviction, divorce---are aggravated by the unremitting bleakness of their poverty. Most of us will never know what it is like to fight an unlawful eviction notice---alone.

But the poor also live in symbiotic relation to a faceless bureaucracy that administers a complex web of regulations governing welfare; Medicaid, unemployment insurance and all the other support services that even the Administration regards as a "safety net" for the poor. For such citizens, a bureaucratic error or an administrator's carelessness can produce a life crisis. Few of us would think of facing such crises uncounseled.

The effective and fair working of the adversary process--the engine that drives our judicial system--requires strong advocacy on behalf of all participants in it, including the poor. In a nation where so many vital public issues become legal questions, access to courts is tantamount to access to government itself. Denial of that access to the poor works a special kind of disenfranchisement on over 30 million Americans.

Our system of government depends upon private law enforcement to correct governmental error or inattention. Lawyers for corporations, unions and other groups perform that function for their private clients every day and thereby serve an important public service. Legal Services' lawyers, by serving their clients' interests, make an identical contribution to this country's rule of law. Elimination of such advocacy on behalf of the poor would be uniquely unfair because it would deny the poor the sort of legal representation that our tax laws subsidize for other Americans.

There is no stain on the record of the Reagan Administration uglier than its attempts to kill the Legal Services Corporation. From its first days in office, this Administration has sought to cut off the Corporation's authorization by Congress or starve it for funds. It has now nominated a new governing board whose commitment to the goal of providing quality legal representation to poor Americans appears to be, to put it very charitably, extremely doubtful.

These efforts are different in kind from other Reagan Administration measures which are gutting programs for America's poor. Legal Services is not just "another program". It is the very process by which millions of Americans can assert their legal rights---including their right to challenge the legal and constitutional basis of this Administration's actions.

To cripple or destroy programs which feed and house and educate and heal the Nation's poor is bad enough. But this Administration, by seeking to ration justice as well, would strip its critics of the means to fight back. The tactic is familiar--and terribly unfair. In sporting arenas it is called "hitting and holding". On the streets it is called mugging.

The abstractions of debate too often obscure the type of day to day lawyering that the legal services program provides to needy Americans. Three examples from my State explain better than any arguments what the program is about.

1. A young single mother with four small children, lives in a rowhouse in East Baltimore. Last fall, she wrote to her landlord complaining of serious housing code violations including leaking ceilings in several rooms due to defective plumbing, rodent infestation, and a totally inoperable heating system. Her complaints were confirmed by a city housing inspector who found 31 violations. The landlord adamantly refused to make any repairs.

She and her children spent the entire winter with no heat except a small kitchen oven. After obtaining legal assistance from Baltimore Legal Aid, she was able to obtain a court order allowing her to put her rent monies into escrow. The court has recently ordered the escrow money to be used to make necessary repairs to cure the dangerous conditions on the premises.

2. A sixty-four year old man who could hardly speak due to cancer of the larynx came to Legal Aid with his wife as his spokesperson. His wife told the Legal Aid lawyer that her husband had used his meager savings to purchase the first car of his life from a used car dealer and that the car almost immediately ceased functioning. Investigation by the Legal Aid attorney showed that the dealer charged him four times the book value for the car, which was in especially poor mechanical condition. The lawyer also discovered that the dealer violated State insurance regulations by acting as an auto insurance agent, and violated federal Truth in Lending laws. The dealer eventually settled a court action for twice what the man spent on the car and repair bills.

3. A sixty-year old Baltimore woman who had worked all her adult life as a domestic and laundry worker applied for federal Social Security disability benefits after suffering a stroke and a serious heart condition. She attempted to represent herself at her first hearing before a federal administrative law judge. She lost her claim and appealed to the U.S. District Court. She was then referred to a legal aid office where she obtained

> an attorney who was able to persuade the court to order a new administrative hearing. After the second hearing where her attorney helped her present all available medical evidence, the woman was awarded monthly benefits as a totally disabled person.

The list of such examples could go on and on. Last year, the Maryland Legal Aid Bureau represented over 20,000 individual poor people and provided information and referral services to 55,000 others. Federally funded legal services programs not only benefit many truly needy persons with their individual cases--a very important accomplishment--but they also perform the critical role of law enforcers for the poor and give the poor a stake in a system that all too often seems to be stacked against the poor, the illiterate and those without political clout.

Law enforcement for the poor is needed now more than ever. Those living in poverty or brought to the edge of poverty by the current national recession are in a consistently precarious legal position. The poor are most likely to live in inadequate and dangerous housing. They are most likely to be the victims of unscrupulous merchants. Poverty is a factor which makes maintaining families difficult and thus contributes to divorce and child custody and support disputes. Poor Americans often have the greatest problems in obtaining adequate health care for themselves and their children and face the toughest challenges in obtaining and keeping suitable employment in a depressed economy where there are too many applicants chasing too few jobs.

Not only do the poor face many legal problems, the laws confronting them are often particularly numerous and complex. Over the past two decades, Congress has enacted a myriad of legislative mandates and requirements affecting the poor, ranging from Medicaid programs for health care to public housing programs. Federal agencies such as the Departments of Health and Human Services and Housing and Urban Development have implemented social programs through extensive rules, guidelines, directives and other instructions to State and local agencies. As only one example of this proliferation, there are now 636 pages of the Code of Federal Regulations dealing solely with medicare and medicaid eligibility coverage. In turn, State and local agencies must implement Federal programs through their own complex statutes and regulations. This process of translating federally imposed mandates into local action to benefit the poor invariably produces many serious and complex legal questions which must be resolved. These questions have multiplied as the Reagan Administration has attempted to impose its own views of the public good in the administration of federal social programs.

Enforcement of Federal laws to best implement their expressed purposes is, of course, the initial responsibility of the appropriate federal and State officials. Often, however, due to the inherent complexity of the programs, political or fiscal pressures, or simple ignorance of the responsible officials, programs for the poor are not always implemented according to the legal mandates.

The failure can take many forms: a required portion of a program is accidentally or purposely overlooked or not funded, an obsolete State statute or regulation is not revised, State legislation that conflicts with federal requirements is not repealed, or a program may be administered in such a way to exclude a disfavored class of beneficiaries entitled by law to receive a statutory benefit.

Public lawyers, representing the agencies, can and must counsel their clients to carefully follow and fully implement the law. I am proud of the fact that lawyers in the Maryland Attorney General's Office have been particularly watchful in this area. We try to keep the State out of legal trouble by practicing "preventive" law. But neither we nor our agency clients are all-knowing or infallible. For true law enforcement to occur in the adversary system in this American democracy, there must be legal resources available for the beneficiaries of the law so that they can ensure that laws designed to benefit them are being enforced and implemented in line with the law's purposes.

Let me offer a few examples of the law enforcement successes of legal services in Maryland. In the past several years, Legal Aid lawyers have, through the federal and state courts:

-Regained unemployment compensation for 24,000 Marylanders whose benefits were reduced because of an erroneous interpretation of law by a State agency.

-Restored Medicaid services to 188,000 Marylanders, mostly elderly and children, whose aid was improperly terminated.

-Guaranteed indigent veterans and their widows a right to be heard before termination or suspension of monthly veterans' or widows' benefits.

-Established the right of all citizens to a hearing before involuntary commitment to state mental hospitals.

-Obtained the prompt payment of food stamp benefits as required by federal law for thousands of eligible Marylanders.

Each of these cases, and hundreds more like them in Maryland and elsewhere in the country, illustrate the value to the poor, to Congress and to the states of law enforcement through civil legal service programs. Without the continuing pressure from aggressive and experienced legal advocates for poor citizens, I believe all programs affecting the poor would be less effective in fulfilling their legislative intent and purposes.

The responsibility should not only rest with the federal government. State and local governments also have a major obligation to assist in the effort. I am proud to say that Maryland has been a national leader in this area.

In January, I proposed State legislation that would establish a Maryland Legal Services Corporation. My office drafted and sponsored bills filed in the Maryland General Assembly which not only created a Corporation modeled after the federal Legal Services Corporation, but also provided an initial funding mechanism through a voluntary plan by which attorneys can deposit certain client trusts funds in pooled interest bearing accounts that will generate income for the Maryland Legal Services Corporation. I am pleased to report that the bills passed the General Assembly and I expect that Governor Hughes will sign these bills very shortly.

But these steps cannot possibly justify less federal assistance. We expect only a small amount of funds to be generated for the State Corporation in the first year. Hopefully, over time, additional funding will be generated from the bar, the public and from State and local governments, but for now the funding picture on the State level is highly speculative and the need for federally financed legal services is greater then ever.

The Federal Legal Services Corporation and its local programs are not perfect institutions. They sometimes press claims and lawsuits that are legally "wrong." When they do, my office and its federal and local counterparts, should and do oppose them. Legal Services certainly needs responsible review and monitoring by Congressional committees. Some changes in the law may be needed. One policy that I believe needs rethinking, for example, is the Corporation's aggressive and indiscriminate pursuit of attorneys fees in every civil rights case. But, as we have seen, Legal Services is often "right." And when it is, it gives real meaning to "equal justice under law."

For too much of this country's history, that phrase has been a slogan that could not be taken literally by the poor who could not afford the high cost of legal services. This country took a dramatic step forward in 1965 when it began funding civil legal services for the poor. In 1974, the creation of the Legal Services Corporation, a Republican Administration proposal passed by a Democratic Congress, ensured a solid, non-partisan national commitment to justice under law for the most disadvantaged among us.

The experiment has begun to work. Although there is still only an average of one legal services lawyer for every 10,000 poor people in the country, the poor have begun to understand that they, too, have a stake in the rule of law.

The Corporation's current budget request is modest. In FY 1982, the budget was slashed 25% to a level of $241 million. The Corporation proposes that 10% be added to the $241 million figure bringing the budget request for FY 1983 to $265 million. This small increase will allow the Corporation and its grantees to merely keep pace with the effects of inflation, but with this budget the Corporation will still not be able to meet its goal of bringing a minimal level of legal services to all poor Americans.

I urge the Subcommittee to act favorably and quickly on the Corporation's budget request for fiscal year 1983.

PATENT AND TRADEMARKS

STATEMENTS OF:

CRUZAN ALEXANDER, VICE PRESIDENT, INTELLECTUAL PROPERTY OWNERS, INC.

JOHN T. LANAHAN, CHAIRMAN, U.S. DEPARTMENT OF COMMERCE, PUBLIC ADVISORY COMMITTEE FOR TRADEMARK AFFAIRS

HOUSTON L. SWENSON, PRESIDENT, U.S. TRADEMARK ASSOCIATION

JOSEPH A. DeGRANDI, AMERICAN BAR ASSOCIATION

JULIUS JANCIN, JR., PRESIDENT, AMERICAN PATENT LAW ASSOCIATION

Senator WEICKER. We will now go to our third panel which relates to patent and trademarks, Mr. Cruzan Alexander, vice president, Intellectual Property Owners, Inc., John Lanahan, chairman, U.S. Department of Commerce, Public Advisory Committee for Trademark Affairs, Mr. Houston Swenson, the president of the U.S. Trademark Association, Mr. Joseph DeGrandi, American Bar Association, and Mr. Julius Jancin, Jr., President of the American Patent Law Association.

Gentlemen, you are welcome. I would appreciate it if you would observe the guidelines which I indicated at the outset. Proceed in any way that you wish.

Mr. ALEXANDER. I am Cruzan Alexander, vice president of Intellectual Property Owners, Inc. I am also chief patent counsel for 3M. On behalf of Intellectual Property Owners, Inc., I express thanks for this opportunity to give you our views on the budget for 1983 for the Patent and Trademark Office.

The Patent and Trademark Office has asked for the right to set fees at a higher level than ever before and justified this request by stating that the trademark owners "derive the primary benefit from the trademark protection" and that "the benefits of patent protection, likewise, primarly accrue to patent holders."

We completely disagree with the statements that trademark registrants are the primary beneficiaries of that registration and that the benefits of patent protection primarily accrue to patent holders. The Constitution, the statutes creating the patent and trademark systems and our experience in the operation of these systems in our country all lead us to conclude that such statements are dead wrong.

The proposed budget begins to remedy the backlog problem, and we agree and support this effort. We note, however, there is little in the budget which will increase the quality and reliability of patents. The patent search library is notoriously unreliable, and money should be provided to remedy this situation. Also, both examiner continuing education and substantially increased examining time are in need of support. These and other needs should be provided by an adequate budget shared by the public with the users since the public is also a beneficiary of an adequate and reliable patent system.

We are definitely in favor of fees set by statute and feel that it would be an extremely constructive legislative proposal. With respect to the two-tier fee structure, while we appreciate the fact that this is an attempt to alleviate the burden of high fees for those in less favorable financial conditions, we feel that the net effect of establishing such a two-tier structure would not be advantageous. There is no such arrangement in other countries.

Furthermore, there is, it appears to us, a substantial likelihood that persons in other countries would take undue advantage of such an arrangement.

We thank you for this opportunity to present our testimony and would be pleased to answer any questions you might have.

Senator WEICKER. Thank you very much. If there are any questions, I will ask them at the end, and we will just continue with the witnesses.

STATEMENT OF JOHN LANAHAN

Mr. LANAHAN. I will take the second shot at it.

I am John Lanahan. I am the current chairman of the U.S. Department of Commerce Advisory Committee for Trademark Affairs. I wish to thank the committee for giving our group an opportunity to comment on the development that, in our opinion, could seriously affect the future of the trademark registration system.

The public advisory committee, which I am chairman of, works very closely with the Trademark Section of the Patent and Trademark Office. The committee consists of 15 members who represent practically all cross-sections of the users of the trademark system. The advisory committee activities includes consideration of all aspects of internal operations relating to trademarks and probably one of its primary functions is to provide a continuing source of knowledge for the private sector and the Government in the trademark field.

More or less, we serve as a sounding board. With respect to the primary issue at hand, that is, the establishment of new fees, there are apparently many misconceptions.

Our advisory committee has been studying and examining the fee structure for quite some period of time. As a result of well over a year's work, this committee has what it believes is an equitable fee schedule that will absorb a substantial portion of the cost of the operation, yet it takes into consideration that there is a considerable public benefit involved in the registration system, and it provides a substantial service to many identifiable groups.

Our committee has been privy to many statistics and facts which helped it structure a statutory fee schedule that could be substituted for the present one set forth in the act. It includes a filing fee increase in excess of 300 percent, which is somewhat lower than the near 600 percent proposed by the PTO for 100 percent recovery. Our $125 finding fee, versus the PTO's $200 filing fee, would generate approximately 63½ percent of the fee income provided by our schedule, but it would require a $4 million appropriation.

What we are talking about is percentages; if you take our full fee schedule altogether, this would represent about a 75-percent coverage of the cost of operation.

If you take the Reagan budget of $13.6 million, it would represent 87½ percent of that amount.

It is believed that this 100-percent-recovery concept is based on the false assumption that rights to trademarks come from registration, and this is simply not true. These rights are acquired by use under common law. A registration merely recognizes an existing legal right.

The registration doesn't provide the owner with any monopoly, but it does provide a public listing of the registrant's claim to the term that it wishes to protect. However, if the registrant ceases to use that term, the registration is useless.

This 100-percent-recovery approach proposed in the Senate and House bills is a dangerous concept for two basic reasons: It proposes such a large increase in fees that it endangers the future operation of the system. Because in this 100 percent concept, you are going to see fewer users, and the higher the cost has soared, thus conceivably, this concept could destroy the fundamental purpose for which the registration system was established, and that is simply to provide a national public record of the listing of all means of identification for products and services.

Who are the beneficiaries of this system? That is every single party who wishes to offer to the public a product or a service; they must do so by adopting a means of identification which no one else is using. The U.S. trademark registration system affects every conceivable type of business with no exception. It affects a far larger group than the patent system.

Every individual, every business, large or small, needs to operate under a personal means of identification.

There is a substantial need to have a reliable, simple registration system in order to determine the availability of a firm's selection. This simply calls for a public search room. It is the position of this advisory committee that in an establishment of these fees, we must not allow the cost of user assistance to reach a level that will inhibit the use of the system.

This is a very basic point. In other words, we don't want to create a sticker shock which practically all of us have experienced. Certainly, the automobile industry has learned the effect of that.

It must not be forgotten that the user—this is important—has the option of using this system, because its basic right is from the use of the mark in commerce and not from the registration.

There is a further misconception which has been used as a basis for the 100 percent recovery. That is that there is no public benefit. That is totally false. This system was established for the public, and the Senate hearings during the development of the Lanham Act stressed the importance of providing the public with a simple registration system. The system prevents litigation. It is a deterrence against counterfeiting. It protects the public as to confusion of source. It is a system that is needed and required by all businessmen, whether individual or large corporation; by all persons who sell products or offer services.

The Reagan administration, through OMB, in a February 8, 1982, publication acknowledged there was a definite public benefit and there should be a taxpayer's contribution for that benefit.

This is a recognition of a service being provided to an identifiable group: the public. It is clear that OMB did not envision that the PTO would present a budget in which there would be no appropriation for the trademark operations. The second reason is this concept eliminates financial review by Congress of the operation of this section of the PTO.

By passing a law that guarantees 100 percent recovery, no matter what the cost may be, it is equivalent to handing the agency a blank check, and, acknowledges Congress, your group, the right to review their operation in one of the most basic areas and that is dealing with the cost.

Our prepared statement discusses the details, the reasoning behind this schedule of fee and the purpose for which we are recommending our $4 million appropriation.

I thank you for the opportunity to discuss this. I would be pleased to answer any questions.

Senator WEICKER. Thank you very much.

Mr. Swenson?

STATEMENT OF HOUSTON L. SWENSON

Mr. SWENSON. Thank you, Mr. Chairman.

The U.S. Trademark Association is appreciative of this opportunity to comment on the 1983 budget submission for the PTO. You have reviewed our written comments. We request that they be placed in the record.

The U.S. Trademark Association is a 104-year-old organization. Our purposes include protection of the interests of the public in the use of trademarks; the promotion of the concept of trademarks, as well as to protect the trademark rights of owners.

We represent the majority of owners of trademark registrations in the United States. We are the oldest and largest organization dedicated solely to trademark matters. Our comments are necessarily confined to the trademark aspects of this 1983 budget submission.

This submission is based on the assumption that Congress will approve what Mr. Lanahan has laid out as a 100-percent cost recovery based on fees from the Commissioner. We all accept the fact that the PTO, and particularly the trademark operation, is in very poor condition. We are very pleased with some of the steps that the commission office has taken toward improving these. We recognize it is going to be a long time before this can be done, but we are becoming concerned that these improvements are going to be completed at about the time that the voluntary registration efforts of trademark owners drops off.

I say that because of this fee level and the concept of the commissioners establishing those fees, remembering that, as explained before, these trademark rights are not acquired through registration, they are acquired through use. Whereas, if I'm an inventor, I can't go into court to sue for patent infringement until I have a patent.

Just the opposite: I can go into court and sue for trademark infringement based on my proper use of that mark.

However, it was recognized that a register would help the public, and 100 years ago, we started that register of trademarks where anyone planning to adopt a new product could search that record and come up with a mark that was different than what appears on the register. Obviously, this is a benefit that is going to accrue not just to the owner of the mark but to the public. Any time you have public confusion on trademarks, that means the public isn't getting what it thought it was getting.

I think a lot of us have experienced the situation where we have gone home and found we have picked up something that we thought was ours and wasn't. In some instances, this is because of the trademark concern.

In 1946 it was recognized that this register wasn't doing the job we all wanted it to do, that is, to be a full and complete record of trademarks used in interstate commerce. Consequently, there were added benefits to that 1946 law, and, I might add, that 10 sections of that law clearly relate to the public benefit achieved or the public benefits concerned with respect to the confusion of marks.

We have always, as an association, objected to a percent of cost recovery concept which requires setting of trademark fees by the Commissioner. It obviously is going to create a lot of administrative problems. Is it going to create or institutionalize inefficiency? Is it a blank check? Is Congress really willing to give us controlled fees for trademarks whereas I understand with respect to S. 2325, at this point, Congress is retaining control of the fees for patents.

We, as an association, urge the Congress to retain that control on the establishing of trademark fees, too. We recognize that there is this need to cut down on appropriations. The U.S. Trademark Association has a fee structure. It is coinciding with the one that has been submitted by the public advisory group.

We think it coincides with the patent trademark section of the ABA. It does, though, call for an appropriation, and to meet the budget submitted by the PTO, it is going to call for a $4 million budget. We don't think that is out of line. We do think such concepts as expressed by OMB are an indication of a misunderstanding of the whole trademark registration system.

OMB has alluded to overconsumption by users which have created excessive costs. If their intention is to reduce these registrations, then they have completely missed the boat on what a trademark register is about.

We think that based on last year's expenditures for trademark services, our fees are going to be very reasonable. As an example, the three revenue producers for trademark fees are applications, renewals, and affidavits. Those three produce revenue of about 80 percent of the revenues of trademarks. We think that the commissioner's tier proposal, which amounts to a 1,000-percent increase over today's three primary revenue producers, is very excessive. We think there are people who recognize they ought to have trademark rights but are going to be reluctant to enter that.

Our own fees are 700 percent higher than today's fees. I think that is a substantial increase. All we are asking is that appropriation be considered as a skeleton for a good operation; our fees, then would add to keep that trademark going.

Thank you.

Senator WEICKER. Thank you very much.

Mr. DeGrandi?

Mr. DEGRANDI. Thank you, Mr. Chairman.

STATEMENT OF JOSEPH A. D'GRANDI

My name is Joseph A. DeGrandi. I am chairman of the section of patent, trademark, and copyright law, of the American Bar Association. My statement is being presented solely on behalf of the section. It does not represent the position of the American Bar Association. I would like to summarize the key points.

First, the section of patent, trademark, and copyright law consists of approximately 6,000 lawyers, essentially all of whom are in private or corporate practice and who deal with patents and trademarks on a daily basis with clients, with the Patent and Trademark Offices and with the courts. Our section was so concerned about the negative impact on invention and innovation in the United States of H.R. 5602 and S. 2211, if they were to become law, that it called a special meeting on March 23, 1982, to discuss the proposed bills.

The comments set forth in my prepared statement and those which I will briefly summarize today fully reflect the section's position. To summarize briefly, our position is: First, we agree with the goals of the Commissioner of Patents and Trademarks, Gerald J. Mossinghoff, that our country have a first-class patent and trademark office issuing high quality patents which are enforceable in the Federal courts. In fact, these have been the goals of our section and the patent bar for many, many years.

Second, our section supports the administration's position that the Patent and Trademark Office should be funded at a level of approximately $155 million for fiscal year 1983.

Third, our section agrees that PTO fees should be increased to the level suggested in our statement, which is set forth in resolution 11-B in the appendix of our statement.

We believe that the PTO fees should be statutory fees, that they should be set by Congress, and that Congress should appropriate at least $90 million to reach the 1983 PTO funding level. This $90 million is a 25-percent reduction of the annual PTO appropriations for the last 3 years.

Four, our section strongly disagrees with giving the Commissioner authority to set fees every 3 years and to recover substantially the entire costs of operating the PTO from such fees. To estimate costs 3 years in advance requires expensive and time-consuming cost analysis that includes factors which are incapable of exact determination, resulting in a setting of even higher fees, or incurring unexpected contingencies in 3 years.

In fact, some of the fees proposed by the PTO from the years 1983 through 1985 are higher than they should be in order to cover such contingencies.

Fifth, the statutory fees should be set for no more than 4 years. Congress should be required to review the fees after reviewing the performance of the PTO over those 4 years, ascertaining the goals reached in those 4 years, by the Comissioner and inquiring as to why some of the goals may not have been reached: Has there been a sharp drop in the filing of patent applications during those 4 years? If so, why? Were the fees too high? Should they be lower?

Most importantly, the patent and trademark holders and the bar will have their opportunity to give their input to Congress as to what the PTO has or has not been doing during those 4 years. Since the main objective of the Patent and Trademark Office is and has been to have a first-class office, the bar can readily alert the Congress as to whether the goal has been reached and if not, why not.

Six, our section strongly disagrees with giving the Commissioner authority to recover substantially the entire costs of operating the PTO from fees paid by independent inventors and patent and trademark owners. Up until December 1, 1980, it cost a minimum of $175 in Government fees to obtain a patent for a total of 17 years. Under S. 2211, the minimum cost of fees would be set at $3,200, and as the Commissioner's need increases as the PTO becomes self-sufficient on fees, the fees, as necessary, would have to keep on increasing.

Such fees should have an adverse affect on innovation and invention and will be pricing small inventors and businessmen out of using the patent system and the PTO.

Seven, our section notes that S. 2211, fails to provide for the Trademark Office. The reasons for our concern are fully set forth in our prepared statement.

The Founding Fathers gave to Congress the power to promote the progress of science and the useful arts. Under that power, Congress created the Patent and Trademark Office and eventually assigned jurisdiction of it to the Department of Commerce. Unfortunately, over the last 15 to 20 years, the PTO has been treated as a neglected stepchild by several administrations who have systematically undercut its budget and decreased its personnel.

It did not bother such administrations or even Congress that examiners were writing their decisions in longhand. In fact, it wasn't until just about 1 month ago, March 31, 1982, that enough word processors were finally installed to permit the typing of all such decisions.

The country which has led the world in computer technology has not even permitted its Patent and Trademark Office to computerize all of its operations. Most of the searches are still being done manually by examiners. We ask the Congress to reassert its role of insuring promotion of science and the useful arts by giving the PTO the necessary funds and establishing fees by statute under resolution 11–B.

Only by such a commitment by Congress will this country continue on its path of innovation with new products and processes being developed and introduced, more small businesses being started, more growth of small businesses into large businesses and industries, more people being employed and more taxes being paid into the U.S. Treasury by such businesses based on profits and royalties received and by such employees based on their income.

Congress should not let this opportunity slip away. If it does, then in 1990, if any plans are made to celebrate the 200th anniversary of the First Patent Act of 1790, one wonders what will be left of the system to celebrate. Will independent inventors and businessmen who have been priced out of the system even care what has happened to it?

Thank you, Mr. Chairman.

Senator WEICKER. Thank you, very much.

Mr. Julius Jancin?

STATEMENT OF JULIUS JANCIN

Mr. JANCIN. Thank you, Mr. Chairman.

I will be brief and try not to repeat. I am the president of the American Patent Law Association, which is a national association of patent and trademark copyright lawyers.

You know, Mr. Chairman, that Commissioner Mossinghoff has a three-point program for the improvement of the operation of the Patent and Trademark Office requesting some $154.9 million to carry out the program during fiscal year 1983.

The production goals set by Commissioner Mossinghoff are recognized as optimum efficiency levels for both the patent operation and the trademark operation. As such, they have our full support.

The APLA also strongly supports the third point of the Commissioner's program, which is the full application of computerized data retrieval and storage technology for the files and procedures of the Patent and Trademark Office.

The 96th Congress, in Public Law 96–517, directed that this effort will be undertaken. We hope that this year and in the years to come this subcommittee will support the effort.

We are confident that in the years immediately ahead we can work with the Commissioner and with this subcommittee to enhance not only the production levels of the Patent and Trademark Office, but the quality of its work products until final solutions are developed.

In Public Law 96–517, Congress authorized that on October 1, 1982, these patent processing fees are to be increased to approximately $400 and that new maintenance fees totaling approximately $1,400 are to be payable in three increments during the life of the patent in order to keep the patent enforced. In the pending bill, S. 2211, these levels of fees would be doubled over those in Public Law 96–517.

The American Patent Law Association opposes this sharp new increase in fees. We believe that fees of this magnitude will act to discourage all inventors from using the patent system. Your legislative initiative, S. 2326, merits comment because it has been introduced to relieve small business, nonprofits, and individual inventors of the high fees in S. 2211 by permitting these categories of users to pay 50 percent of the fees prescribed in S. 2211.

We look favorably upon S. 2326 as it softens the impact on small business, nonprofits, and individual inventors. We commend the approach in S. 2326 to specific absolute fees, as distinguished from percentages, so as to provide certainty in fee amounts.

We offer a note of caution in suggesting the need for a 3-year fee sunset provision in order to call for another congressional review of fees. You should know, however, Mr. Chairman, that the American Patent Law Association opposes the two-tier approach in S. 2326 for the following reasons:

First, we cannot approve a practice that favors certain foreign nationals with lower fees over U.S. companies.

Second, we believe that for the small saving, the risk of other countries adopting a two-tier system harmful to the United States is not worth chancing. The intellectual property related problems directed to unfavorable treatment of nationals in developing countries, now evident in the Paris convention treaty, as well as the law of the treaty negotiations, indicate that these are really, not academic matters.

Finally, Mr. Chairman, we support equal treatment of all applicants and all nationals.

Thank you very much.

PREPARED STATEMENTS

Senator WEICKER. Thank you very much, and your comments will be placed on the record, and great thought will be given to them. Thank you for giving them to us.

[The statements follow:]

STATEMENT OF CRUZAN ALEXANDER

On behalf of Intellectual Property Owners, Inc., I express thanks for this opportunity to express our views on the Fiscal Year 1983 budget for the Patent and Trademark Office.

At last year's hearing, we predicted that the average pendency for patent applications would increase in FY 1982 to over 25 months; we called that a "giant step backwards". What we predicted, we note sadly, has come to pass. The total number of patent applications in the PTO at the end of FY 1982 is estimated to be about 13% higher than in 1980. Indeed, even with the proposed budget for FY 1983 the number of applications in the PTO at the end of that year will be about 21% higher than in 1980, and the average pendency will be at least 26.7 months (about 8 months longer than the average pendency at the beginning of FY 1980).

This proposed budget for FY 1983 does, however, begin to remedy at least the backlog problem. To do this, unfortunately, it will be necessary to play "catch-up football" and to devote substantial resources to the single problem of keeping the backlog of patent applications from becoming so great that the PTO is effectively smothered by its own files. We at IPO agree completely and support this effort to correct the backlog problem.

On the other hand, we note that there is little in this budget proposal which will increase the quality and, therefore, the reliability of patents issuing from the PTO. The backlog problem could be corrected simply by allowing all applications to issue as patents tomorrow; the result would be chaos. While patents should issue promptly, every reasonable effort should be made to see that only those patents issue which meet the statutory criteria. To do this, patent applications must be properly examined.

Proper examination requires:

1. A complete, accessible library

2. A trained examiner to compare the application with the material in the library; and

3. Sufficient time for the examiner to make the comparison.

The PTO patent examination process today is deficient in all three of these essential aspects; there is almost nothing in this proposed budget to improve them. While the computer studies proposed may help in the long run, we are not even close to the point at which we could abandon our present search files, the "library" mentioned above.

That "library" is notoriously unreliable. As we said in our testimony last year, "In one study it was determined that well over 20% of the documents in some of the active subclasses were missing; another study suggested that - - on the average - - 7% of the documents throughout all the patent subclasses were missing." There is nothing in this proposed budget to correct this deficiency; on the contrary, the reclassification of original references will decrease about 32%, compared to FY 1980.

Further, while individual patent examiners generally try to keep up with developments in their fields, their expertise should be formally maintained by academic study and field trips to appropriate industrial installations. There is nothing in this proposed budget to do this.

On the average, the patent examiner now has only about 3.5 hours to search each application and spends a total of 15 hours on that application. This is substantially less time than was devoted to the average application thirty years ago. When one considers the enormity of the increase in technical literature in that period, it is not surprising that important pieces of prior art are sometimes overlooked by the patent examiner in the short time given him. There is nothing in this proposed budget which would remedy this situation.

In summary, IPO encourages the effort to reduce the patent application backlog, and the correlative pendency problem, but emphasizes the point that the patent system also needs substantially increased reliability. This unfortunately will not be achieved with the present budget proposal.

In the trademark area, assuming the accuracy of the estimates given, we note that progress is being made in time to first action and time to disposal. We applaud such improvement.

In conclusion, the document containing this FY 1983 Congressional submission notes that the request for funding is 42.8 percent less than for FY 1982. While the PTO Public funding is being reduced from about $120 million to $68 million, it is noteworthy to realize that the funding for the Bureau of Standards goes from about $120 million to $104 million, a reduction of about 13%.

Furthermore, while the PTO proposes to reduce its Public funding about 90% in future years, we are not aware that the funding for the Bureau of Standards is in any regard to be substantially reduced.

IPO strongly opposes reduction of the Public funding for the PTO below that provided for the Bureau of Standards. Throwing the expense of operating the PTO on applicants is a new tax on innovation. The fees for a seventeen year patent would be increased from $235 to at least $3200. We don't need this added deterrent to national inventive efforts. Fifteen years ago residents of the U.S. received 54,161 U.S. patents. In 1980 they received 38,134. We have exported jobs on a wholesale basis; we should be stimulating "Yankee Ingenuity", not suppressing it.

The PTO has asked for the right to set fees at a higher level than ever before and justifies this request by stating that trademark owners "derive the primary benefit from trademark protection" and that "The benefits of patent protection, likewise, primarily accrue to patent holders."

IPO disagrees. We feel that Congress should set the fees charged by the PTO. And like almost everyone else who has considered the issue - - including the U.S. Chamber of Commerce, the U.S. Trademark Association, the American Patent Law Association, and the American Bar Association - - we completely disagree with the statements that trademark registrants are the primary beneficiaries of that registration, and that the benefits of patent protection "primarily accrue to patent holders." The Constitution, the statutes creating the patent and trademark systems and our experience in the operation of those systems in our country all lead us to conclude that such statements are dead wrong.

As a final matter, we have considered S.2326 which would establish a two-tier fee structure for the PTO and which would provide fees set by the statute. We are definitely in favor of fees set by statute and feel that would be an extremely constructive legislative proposal. With respect to the two-tier fee structure, while we appreciate the fact that this is an attempt to alleviate the burden of high fees for those in a less favored economic condition, we feel that the net effect of establishing such a two-tier fee structure would not be advantageous. There is no such arrangement in other countries. Furthermore there is, it appears to us, a substantial likelihood that persons in other countries would take an undue advantage of such an arrangement.

We thank you for this opportunity to present our testimony and would be pleased to answer any questions you might have.

STATEMENT OF JOHN T. LANAHAN

I wish to thank you in behalf of the group I am representing for the opportunity to appear before your subcommittee.

I am John T. Lanahan, and I am the chairman of the U.S. Department of Commerce Public Advisory Committee for Trademark Affairs. I have been practicing in the patent and trademark fields for over 30 years, and have been associated with various law firms and corporations, and I am currently trademark counsel for UOP Inc.

I have been active in all the major bar associations, served as chairman of various committees, and I am a past president of the United States Trademark Association.

The Public Advisory Committee, of which I am chairman, works very closely with the trademark section of the Patent and Trademark Office. The committee consists of 15 members, all of whom have practiced for many years in the trademark field and represent practically all cross-sections of the users of the trademark system.

The objectives and duties of this Public Advisory Committee is to advise the PTO on steps that can be taken to increase efficiency and effectiveness of the administration of the Trademark Act, and to provide a continuing source of knowledge from the private sector to the government in the trademark field.

The committee's activities include consideration of all aspects of internal operations relating to trademarks, trademark rules, trademark practice and the administration of the trademark operations, including the examining operation, the Office of Trademark Program Control, and the Trademark Trial and Appeal Board. The committee serves solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

This statement is directed to those sections of both Senate Bills 2211 and 2326, and House Bill 5602 that propose the establishment of a 100 percent recovery of the costs of operating the trademark section of the Patent and Trademark Office (PTO).

The Advisory Committee recognized that the contribution by the user of the trademark system should be increased substantially, and was in full agreement with the proposition of increasing User fees, and had recommended fee increases long prior to the Reagan Administration's adoption of its user fee concept. Our Committee advocated this position because of the dire need of additional funds, which has been denied the trademark operation in previous budgets, and believes that if the User assumes a larger share of the cost of the operation, it will materially increase the likelihood of creating an efficient and first class operation.

A 300 percent increase in filing fees, although yet to be officially established, will occur on October 1, 1982, if Public Law 96-517 goes into effect without being amended. Nevertheless, the Advisory Committee advocated even a higher fee recovery, but it based its approach on an established set of statutory fees, and not on a percentage recovery of cost, the latter of which has resulted in a speculative evaluation as to the level these fees should be set in order to insure an exact percent recovery.

As a result, the administration's bills, in support of its 100 percent recovery, are suggesting a near 600 percent increase in application filing fees. In contrast, our Advisory Committee, after careful and substantial review and study, created a proposed "Schedule of Fees" which included a filing fee increase slightly in excess of 350 percent. The Advisory Committee's "Schedule of Fees" (see Exhibit A) was developed in conjunction with the proposed workload schedule (see Exhibit B) provided by the PTO for the fiscal years 1983 through 1985. The most sensitive fee on this Schedule is the "application filing fee," which was set at $125, and would generate over 63.5 percent of the fee income ($7,600,000), provided by this "Schedule," but it would require a $4 million appropriation by Congress.

The Advisory Committee believes that there is a maximum level to which these fees can be raised, and which the effect of the raise would not materially reduce the number of users of the trademark registration system. It is the position of this committee, after a long study, that in the establishment of these fees, we must not allow the cost of using the system to reach a level that will inhibit the functioning of the system as a whole.

In respect to the purpose of the Trademark Office's registration system, there appears to be a complete misunderstanding as to who benefits by the registering of a mark and what is the purpose for the government having a registration system.

The reasoning of proponents for 100 percent recovery is apparently based on the proposition that the registrant obtains exclusive rights by registering its mark, and therefore, only the registrant benefits from the use of the registration system. The right to use does not come from registration. The legal right to use a means of identification is acquired from actual use of the mark on the product or in association with the service. Therefore, this registration does not provide the owner with any monopoly in itself. It merely recognizes an existing legal right acquired by use under common law, and provides a public listing of the registrant's claim to the term which it wishes to protect. Accordingly, all applicants for registration have a choice as to whether to use the system or not. If the price is too high, they simply won't use it.

The registration itself does provide constructive notice to all third parties of the existence of a registrant's claim to use a particular means of identification. The registrant does gain certain other advantages by registration, but the real purpose, and by far the biggest benefit, is providing the general public with a central registration system which permits any individual who wishes to adopt a new means of identification to conduct a search and determine what means of identification are available for adoption, thus minimizing the risks that the newcomer must assume when adopting a new name that could result in a serious conflict or financial loss. But if this registration system isn't utilized, the benefit is diminished or lost.

Every single party who wishes to offer to the public a product or service must do so by adopting a means of identification which no one else is using. The trademark registration system serves every conceivable type of business with no exception. It affects a far wider group than the patent system. Every individual, every business, large or small, needs to operate under an exclusive means of identification, and when it selects or adopts this new means of identification, there must be some assurance that it can proceed without interference from some unknown third party. Without a reliable central registration system, that can be used to check the availability of a proposed new mark, all individuals or businessmen of all levels will have to assume a substantially higher risk, and they would further lose a great deal of time and money, both from clearing the means of identification, and possibly litigating the conflicts that might arise in the future.

This Federal registration system serves to prevent litigation, in fact, a substantial amount of litigation. Interestingly enough, the cost of one single suit can exceed by far the requested appropriation for running this Office. The registration system serves to expedite the creation of new business opportunities. It serves to encourage the promotion of new ideas by making it easier and economically feasible to come out with a new product (even if unpatentable) with a new name, which represents the owner or seller. If the new business is successful, the registration assists considerably in preventing counterfeiting and copying which could seriously harm not only the originator of the term, but the consuming public who individually would be affected by not receiving the expected product of their choice.

In a publication that the Reagan Administration put out through OMB on February 8, 1982*, it acknowledged that there was a definite public benefit involved in the operation of the PTO, and it stated on page 220 of this report that "the federal government would continue to fund" certain activities of the PTO. It acknowledged that there should be taxpayer contributions. It did not envision or recommend that the PTO present a budget in which there would be no appropriation for the trademark operations. It specifically stated that "the federal government would continue to fund the public search room and other non-processing functions." The Trademark Office operates a separate public search room from that of the Patent Office, and when the PTO was asked why they did not request any appropriation for the performing of this public service, which is required by law, the response was that they were being "ultra-conservative in their interpretation of OMB's directive." Obviously, 100 percent recovery is about as conservative as you can be.

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* "Major Themes and Additional Budget Details Fiscal Year 1983" Identifying Number S/N 041-001-00243-0.

The committee has worked for many months trying to arrive at and develop a "Schedule of Fees" that would balance out the needs of the trademark operation with the practicality of not materially preventing the general public from using the system. The committee is aware of Senator Weicker's recently introduced bill S.2326, which would be a substitute for S.2211, and provides a two-tier "Schedule of Fees" that would benefit small businesses. It is the Advisory Committee's recommendation that the Senator add a further amendment to this bill by increasing the appropriation by $4 million and substituting the suggested "Schedule of Fees" (see Exhibit A), for Section 3(f) of his bill.

It is imperative to improve the efficiency of the trademark operation so that it can provide availability information on new means of identification in the shortest possible time. Anything that would delay or add to the processing of the application, such as a two-tier fee system for trademarks, would be more detrimental than beneficial. There are many basic reasons for avoiding a two-tier approach, and from the trademark standpoint, the cost of administrating such a provision would not justify its adoption. It is far more critical to small businesses that all parties use the system, and to receive prompt examination, than it is to get a slight advantage in filing fees.

This "Schedule of Fees" has been reviewed by innumerable groups, and has been adopted by the United States Trademark Association, the Patent, Trademark and Copyright Section of the American Bar Association, and others. It involves an appropriation of almost 40 percent less than the taxpayer's contribution for FY 1982, and proportions the cost of the various services in a different manner than that proposed by the PTO. In fact, there were certain fees actually increased where the Committee felt there was a great user benefit.

The projected workloads (see Exhibit B), provided by the PTO for all the Trademark Office's services that they expect to render for the fiscal years 1983 through 1985, is based on today's fees. By applying the Advisory Committee's proposed "Schedule of Fees" with a $4 million appropriation (see Exhibit A), the Trademark Office should realize an income sufficiently close to their projected budget to insure their ability to operate the Office in an efficient manner. It is believed that at the lower level of the fees proposed by our Committee, such as the filing fee ($125 vs. $200), opposition fee ($100 vs. $300), etc., there would be a negligible decrease in the use of this system, and that the projected workload schedule would be more likely realized than under the higher proposed "Schedule of Fees" presented by the PTO (see Exhibit C), which would require a much higher contingency level.

The FY 1983 budget for the trademark operation, proposed by the Reagan Administration, is $13,622,000. The Advisory Committee has been informed that OMB has approved a budget for FY 1983 of $14,371,000 (see Exhibit D), which encompasses anticipated salary raises, etc. The reason for working with this higher budget was to assist the PTO in its calculations of establishing fees that would come closer to recovering the required 100 percent. Proposed budgets for FY 1984 and FY 1985 have also been provided the Committee. The Committee has applied the PTO's proposed Schedule of Fees to the PTO's workload projections (see Exhibit B), and have determined for the fiscal years 1983-1985 that there would be a recovery of just under $55 million, which is $9 million in excess of the proposed budgets for those three years (see Exhibit E). The PTO fees were set at about 20 percent above the 100 percent level to insure the Office's recovery of the mandatory 100 percent. However, by setting the fees at this higher level, they obviously would decrease the number of users. Therefore, in actuality, there would be less chance of recovering the projected fees, thus forcing a further increase at the first possible opportunity.

It was the Advisory Committee's unanimous opinion that this possible acceleration of fees that could be caused by the 100 percent recovery approach could very well destroy this registration system, and it was imperative to come up with an alternative approach which necessitated a small appropriation.

The amount of appropriation recommended by the Advisory Committee ($4 million), came as a result of over a year's study, and included efforts to determine what operations were truly provided for the public's benefit. With minimum effort, approximately $4.75 million of public benefits were identified (see Exhibit F) from the PTO's 72 page FY 1983 Budget Submission. This did not come close to exhausting all possibilities, because innumerable intangibles were not used in the calculations, so it is believed that a request for $4 million is quite conservative. For example, it previously was mentioned that the law requires the establishing and maintaining of public search rooms. Both the Patent Office and the Trademark Office maintain substantial search rooms, which to a degree, should be considered "libraries of information." The PTO has provided us with guesstimates as to the annual cost of the Trademark search room to be somewhere in excess of $300,000, which the Committee considers unrealistically low. In another area, the law provides that upon the acceptance of a mark by the Trademark Office, that acceptance is to be made known to the public so that if there is any objection from anyone in the public, there would be an opportunity to prevent its registration. This requires the publication of the mark in an official government gazette. We have been advised earlier this month that the cost of the publishing of each mark averages $17.00. Therefore, the publication of an anticipated 47,000+ marks in FY 1983 would result in expenses of approximately $800,000, which should not be charged to the User.

The user fees proposed in the Administration's bill are for covering the cost of new applications, but there is a two-year backlog of 120,000 applications that were filed, or will be filed, at a reduced filing fee of $35, in which all of these fees will be turned over to the U.S. Treasury Department. With "zero" appropriations for trademarks in FY 1983, there are no funds or provisions for the processing of the pending applications, which were filed in good faith by the American public. Actually, to be fair to new applicants, a separate appropriation should be provided for the processing of this backlog.

A further area that could be carved out of the Trademark Office's budget, and should not be considered part of the user's responsibility, is the Trademark Trial and Appeal Board (TTAB). The budget for the TTAB is a significant portion of the total cost of operating the Trademark Office. Estimates have varied, but the most recent projections show costs that will exceed $1 million for FY 1983.

The TTAB serves a very fundamental and basic purpose, in that it renders a service to the public in general by making determinations on the likelihood of confusion of names that could be detrimental to the public in the marketplace. As an administrative court, it serves two fundamental purposes. First, it provides the parties seeking a determination a means of obtaining a review without going to a federal or state court, and in better times, it also provided a quick determination. The administration's bills provide for a filing fee of $300 for a trademark opposition, approximately 500 percent higher than the cost for filing before a federal court, and a 1200 percent increase over the present fee ($25). No other administrative court has a filing fee at this level. By what reason should this administrative court recover all of its costs? This is contrary to the judicial process which is aimed at encouraging recourse through judicial tribunals.

The consuming public is invariably the unnamed third party in every trademark infringement case. A proprietor may be protecting his own pecuniary interests when he sues an infringer for unfair competition, but at the same time, he is also protecting the public from being deceived or misled. In fact, the law defines the infringement of a trademark or service mark in the terms of its impact on the public. Trademark infringement is illegal because it interferes with the marketing process in which the consumer chooses goods by their brand names. The immediate past Commissioner of the PTO has stated in his most recent book that "questions of both registrability and infringement of trademarks are decided on the basis of what is believed to be going on in the mind of the consumer."

The Supreme Court, in 1882*, just 100 years ago, made a point in stating that a trademark proprietor is entitled to legal protection "not only as a matter of justice to him, but to prevent imposition on the public." This philosophy has been consistently set forth in decision after decision through the past century. It is basic that the protection of the public is the fundamental consideration in the law of unfair competition. It is with these thoughts in mind that the TTAB must be considered as providing an important service to the public. Therefore, its total cost of operation certainly should not be borne by the user. Possibly even more critical is the fact that excessive filing fees will only shift the burden of deciding trademark issues from a forum possessing the necessary expertise for resolving such disputes, to a publicly financed judicial system which is already overburdened. This in itself would be a horrendous waste of government funds.

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* Manhattan Medicine Co. v. Wood, 108 U.S. 218, 223 (1882).

A review of the history relating to the establishment of the Lanham Act in 1947 reveals that in the Senate hearings that occurred, it was clearly established that one of the primary purposes of this 1946 legislation was to encourage the use of the registration system by the public. The reasons given for the passage of this legislation in 1946 was to protect the public from unnecessary confusion as to the true source of the various products and services being offered. Actually, the 100 percent proposal by the administration's bills will put the PTO in a very difficult position, a position which is fundamentally untenable, because of the impossibility of predicting exactly what future use of this system may occur.

In the PTO's efforts to arrive at a fee schedule that would assure them 100 percent recovery, they prepared a set of fees (see Exhibit C), with a built-in contingency that would allow a drop-off from the projected 60,800 applications for FY 1983, to a number slightly above 41,000. This projection in itself establishes that in their own minds the proposed fee schedule will discourage users of the system. There has to be a recognition, when raising the price of any product or service, that a point is reached where the consumer refuses to avail himself of that product or service.

Hardly any of us have become immune to the sticker shock of the last few years in respect to new cars. Much has been written about the New York subway syndrome whereby in their efforts to recover costs, they found by increasing fares, they lost riders, thus the recovery was less and the fares had to be increased again. What we have in this 100 percent approach, is a system that would feed on itself, and upon every review, substantial increases would be required with the result of fewer and fewer users of the system, thus proceeding along a self-destructing path, that would defeat the very purpose for which the Lanham Act was created.

One of the most sensitive areas, and one of major concern to the Advisory Committee, is the giving up of control and financial review by Congress of the operation of this section of the Office. By passing a law that guarantees a government agency a 100 percent recovery, no matter what the cost may be, is more than just handing the agency a blank check, it denies Congress the right to review their operation in one of the most basic areas, that is, dealing with cost. Such costs materially affect the public at all levels. Therefore, a system that would increase automatically to meet expenditures, which would have to increase to offset the lack of users of the system, would eventually destroy the system itself. It would be totally wrong to assume that only small businesses would be affected. In today's climate, every large corporation is constantly reviewing areas to lower costs, and this undoubtedly would result in decisions at high levels restricting the use of the system, with the future affects most likely damaging small businesses who unknowingly adopt names already in use, but not registered.

It appears that the drafters of this legislation, in arriving at a 100 percent recovery, have only been able to identify the trademark owner as a beneficiary of the system. Their failure to recognize or acknowledge the benefits received by the public in general, although acknowledged by OMB in their publication "Major Themes and Additional Budget Details Fiscal Year 1983," clearly implies that the 100 percent recovery concept based on total cost of operating the Office is wrong, and is not what was proposed or envisioned by the Reagan Administration.

In conclusion, this Public Advisory Committee has spent well over a year studying the fee structure, the needs and requirements of the Trademark Office, and feels quite strongly that the public benefit of this system dictates that there should be an appropriation for the operation of this government agency, and that the minimum appropriation should be $4 million. Its projected fee schedule is believed to be equitable, and yet will result in a substantial reduction in taxpayer's contributions over the previous fiscal year. It further provides the necessary congressional review and control that is extremely important if this registration system is to properly serve the public and the Users of the system.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or your subcommittee may have.

$4 Million Appropriation

EXHIBIT A

U.S. COMMERCE DEPARTMENT'S PUBLIC ADVISORY COMMITTEE FOR TRADEMARK AFFAIRS SUGGESTED SCHEDULE OF FEES

FEE CODE	TYPE OF FEE	PROPOSED FEE	PTO's 1983 ESTIMATED WORKLOAD	1983 ESTIMATED INCOME
201	Application Filing Fee	$ 125	60,800	$ 7,600,000
202	Renewal Fee	200	5,800	1,160,000
203	Late Renewal	100	900	90,000
204	§12(c) Claim	100	55	5,500
208	New Certificate	100	250	25,000
209	Certificate of Correction	100	290	29,000
210	Disclaimer to Registration	50	10	500
211	Amendment to Registration	100	800	80,000
N/A	Combined §8 and 15 Affidavits	175	10,020	1,753,500
213	§8 Affidavit alone	75	6,680	501,000
N/A	§15 Affidavit alone	100	2,510	251,000
214	All Petitions to Commissioner	100	480	48,000
205 207	Cancellation Opposition Concurrent Use } eliminate per class	100	2,510	251,000
206	TTAB Appeal	100	374	37,400
N/A	At time of filing briefs in any inter partes proceedings before TTAB	--	1,004	--
N/A	Hearings before the TTAB	--	589	--
220	Informal §8	75	15	1,125
221	Informal Opposition	100	5	500
N/A	Second & Succeeding Extensions of Time to File Oppositions	--	1,000	--
N/A	Certified Copies*	7.50	17,000	127,500
			TOTAL	$ 11,961,025

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* The cost of the certified copies includes the cost of a printed copy of a mark and a title search, for which services trademarks would reimburse other areas of the Office out of the income from this fee.

APPROPRIATION -	$ 4,000,000
	$ 15,961,025

EXHIBIT B

1983-1985 Income and Workload

Fee Code	Type of Fee	Proposed Fee	1983 Estimates Workload	1983 Estimates Income ($ in thousands)	1984 Estimates Workload	1984 Estimates Income ($in thousands)	1985 Estimates Workload	1985 Estimates Income ($in thousa
201	Application Filing Fee	$200	60,800	12,160	63,900	12,780	67,100	13.420
202	Renewal Fee	300	5,800	1,740	6,600	1,980	6,200	1,860
203	Late Renewal	50	900	45	1,000	50	1,000	50
204	§12(c) Claim	50	55	3	55	3	55	3
208	New Certificate	50	250	12	300	15	330	16
209	Certificate of Correction	50	290	14	360	18	380	19
210	Disclaimer to Registration	50	10	1	10	1	10	1
211	Amendment to Registration	50	800	40	1,000	50	1,000	50
N/A	Combined §8&15 Affidavit	150	10,020	1,503	10,560	1,584	8,100	1,215
213	§8 Affidavit alone	100	6,680	668	7,040	704	5,400	540
N/A	§15 Affidavit alone	100	2,510	251	2,640	264	2,020	202
214	All Petitions to Com'r.	50	480	24	580	29	550	28
205 207	Cancellation) eliminate Opposition.) per class	300	2,510	753	3,060	918	3,185	956
206	TTAB Appeal	100	374	37	393	39	472	47
N/A	Hearings before the TTAB	100	589	59	705	71	746	75
220	Informal §8	50	15	1	15	1	15	1
221	Informal Opposition	50	5	-	5	-	5	-
N/A	2nd and succeeding Extension of time to file Opposition	50	1,000	50	1,000	50	1,000	50
N/A	Certified Copies *	10	17,000	170	17,000	170	17,000	170
				$ 17,531		$ 18,727		$ 18,703

*The cost of the certified copies includes the cost of a printed copy of a mark and a title search, for which services Trademarks would reimburse other areas of the Office out of the income from this fee.

NO APPROPRIATION EXHIBIT C

PTO'S PROPOSED TRADEMARK SCHEDULE OF FEES FOR FY 1983

FEE CODE	TYPE OF FEE	PROPOSED FEE	PTO's 1983 ESTIMATED WORKLOAD	1983 ESTIMATED INCOME
201	Application Filing Fee	$ 200	60,800	$ 12,160,000
202	Renewal Fee	300	5,800	1,740,000
203	Late Renewal	50	900	45,000
204	§12(c) Claim	50	55	2,750
208	New Certificate	50	250	12,500
209	Certificate of Correction	50	290	14,500
210	Disclaimer to Registration	50	10	500
211	Amendment to Registration	50	800	40,000
N/A	Combined §8 and 15 Affidavits	150	10,020	1,503,000
213	§8 Affidavit alone	100	6,680	668,000
N/A	§15 Affidavit alone	100	2,510	251,000
214	All Petitions to Commissioner	50	480	24,000
205 207	Cancellation) eliminate Opposition) per class	300	2,510	753,000
206	TTAB Appeal	100	374	37,400
N/A	At time of filing briefs in any *inter partes* proceedings before TTAB	--	1,004	--
N/A	Hearings before the TTAB	100	589	58,900
220	Informal §8	50	15	750
221	Informal Opposition	50	5	250
N/A	Second & Succeeding Extensions of Time to File Oppositions	50	1,000	50,000
N/A	Certified Copies*	10	17,000	170,000
			TOTAL	$ 17,531,550

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* The cost of the certified copies includes the cost of a printed copy of a mark and a title search, for which services trademarks would reimburse other areas of the Office out of the income from this fee.

EXHIBIT D

1983 PROPOSED PTO BUDGETS

	REAGAN BUDGET	PROPOSED BUDGET BY PATENT & TRADEMARK OFFICE
TOTAL 1983 BUDGET	$154,934,000	$161,085,000
Patent Processing	119,990,000	124,599,000
Patent Design Processing	1,444,000	1,508,000
Trademark Processing	13,622,000	14,371,000
Services	8,636,000	8,669,000
Non-Recoverable	11,242,000	11,938,000

The breakdown on the 1983 budget for trademarks is as follows:

Trademark Examination	8,789,000	9,272,000
TTAB	984,000	1,025,000
Trademark Printing	1,281,000	1,281,000
SUBTOTAL	11,054,000	11,578,000
Customer Services	117,000	122,000
Publication Services	146,000	156,000
Data and Document Retrieval	---	125,000
SUBTOTAL	263,000	403,000
Management & Planning	31,000	31,000
Administrative Services	326,000	352,000
A.D.P. (Automation)	1,948,000	2,007,000
SUBTOTAL	2,305,000	2,390,000
TOTAL	$ 13,622,000	$ 14,371,000

EXHIBIT E

TRADEMARK OFFICE EXPENSES

	ESTIMATED COSTS	PROPOSED FEES	PERCENT RECOVERED BY FEES	ACTUAL COST TO GOVERNMENT
Prior Proposed 1983 Budget	$13,539,000 (increased by $832,000)			
New Budget Approved by OMB-1983	$14,371,000	$17,531,000	122%	0
Proposed 1984 Budget	$15,139,000	$18,727,000	123%	0
Proposed 1985 Budget	$16,395,000	$18,703,000	114%	0
Total 1983-1985 Budgets	$45,905,000	$54,961,000	120%	Excess of $9,056,000

YEAR	OPERATING COSTS	FEES PAID	PERCENT RECOVERED BY FEES	ACTUAL COST TO GOVERNMENT
1976	$4,539,000	$1,720,000	38%	$2,819,000
1977	4,759,000	1,953,000	41%	2,806,000
1978	5,443,000	2,055,000	38%	3,388,000
1979	5,199,000	2,097,000	40%	3,102,000
1980	6,643,000	2,199,000	33%	4,444,000
1981	7,992,000	2,367,000	29%	5,625,000
Estimated 1982	9,100,000	2,500,000	27%	6,600,000

YEAR	OPERATING COSTS	MINIMUM USER FEES	PERCENT RECOVERED BY FEES	MINIMUM GOVERNMENT APPROPRIATIONS
Estimated 1983	$15,961,025	$11,961,025	75%	$4,000,000
Estimated 1984	17,251,925	12,751,925	74%	4,500,000
Estimated 1985	17,478,825	12,478,825	71%	5,000,000

EXHIBIT F

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SUMMARY SHEET -- ITEMS IN THE FY 1983 PROGRAM BUDGET THAT SHOULD APPROPRIATELY BE PAID FOR THROUGH GENERAL TAX REVENUES

PATENT AND TRADEMARK OFFICE: TRADEMARK PROCESS ONLY

Activity: Trademark Process	
Examination	
To purchase additional terminals (PAT-40)	$ 116,000
To develop full text data base (machine-readable for all active trademark registrations (PAT-40)	626,000
Other automation-related program changes	191,000
Overtime to reduce backlogs (6 professional staff years/12 clerical) (PAT 39,41)	381,000
Equipment for new personnel (PAT-41)	151,000
Trial and Appeal*	984,000
Printing	
Costs of publication of marks for opposition (this is clearly done for the benefit of the general public) (PAT 43)	802,000
Subtotal	3,251,000
Unaccountable costs of maintaining the Trademark Search Room (as these costs are not identified in the budget, they can only be estimated)	300,000
Activity: Executive Direction and Administration**	
Trademark Process (The amount specified at the right is the total amount prorated to trademarks in the budget.)	1,201,000
	$4,752,000

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* This is the total program budget for the Trademark Trial and Appeal Board and is considered an item that should be covered by general revenues because of the quasi-judicial function the Board serves

** As specified in the House Judiciary Committee Report on HR 6933 (PL 96-517): "...Certain costs of operating the PTO confer no direct benefit on applicants but rather go to meet the responsibility of the Federal Government to have a PTO in order to execute the law. For example, the costs of executive direction and administration of the office..." (emphasis added)

STATEMENT OF HOUSTON L. SWENSON

Mr. Chairman and members of the Committee, The United States Trademark Association (USTA) appreciates the opportunity to comment on the proposed FY 1983 budget submission for the U.S. Patent and Trademark Office (PTO). My name is Houston L. Swenson. I am Trademark Counsel to Eli Lilly & Company and the 1981-82 President of USTA.

USTA is a 104-year-old, non-profit membership corporation whose purposes are to protect the interests of the public in the use of trademarks (brand names, logos or designs that distinguish the goods or services of one merchant from another), to promote the interests of trademark owners in the use of their trademarks and to serve as an educational resource on the use, registration and protection of trademarks. The membership of USTA consists primarily of owners of trademarks and those who represent owners of trademarks. The majority of all United States trademark registrations in effect today are owned or have been prosecuted by members of our Association. USTA is the oldest and largest organization in the world today exclusively dedicated to the trademark concept. Because USTA's interests are limited to trademarks, this statement will be confined to the trademark related aspects of the FY 1983 budget submission for the Patent and Trademark Office.

The PTO's FY 1983 budget submission is based on the assumption that Congress will approve a significant and highly controversial change in the manner in which fees are set. Enactment of this change is being interpreted as eliminating the need to appropriate any funds to operate the Trademark Office or to execute the Federal Trademark Statute. USTA opposes this change in the law because it is contrary to the goals and stated purposes of the Federal Trademark Statute. Accordingly, USTA seeks the reinstatement of some monies in the budget to administer the Trademark Office and execute the law.

This statement will address four major issues pertinent to this Committee's appropriations deliberations: (1) The effect of the proposed change on the manner in which the Office is funded; (2) The consequence to the U.S. Trademark System of a failure to appropriate any federal funds; (3) The appropriate source of funding for specific items in the FY 1983 Trademark Office budget submission; and (4) The USTA's recommendation for a minimum appropriation of $4 million for the Trademark Office.

The Manner of Funding the Trademark Office

The appropriation request before this Committee assumes the enactment of a change in the fee provisions of Public Law 96-517. PL 96-517 was passed into law in 1980 but its provisions for the funding of Trademark Office operations by filing fee increases have never been implemented. To understand, therefore, how the PTO's FY 1983 budget submission would affect the appropriation needs of the Trademark Office, one must look at (i) how the Trademark Office has been funded in the past, (ii) how it would be funded if PL 96-517 were implemented as enacted, and (iii) how the Trademark Office would be funded if the proposed amendment to PL 96-517 (HR 5602) were enacted.

The system by which the Trademark Office has been funded in the past has strictly limited its spending to the amount of annual appropriations received. Revenues from fees were classified as miscellaneous receipts and were disregarded during the budget process.

The funding system created by the existing language of PL 96-517 provides in relevant part:

> "(a) All fees for services performed by or materials furnished by the Patent and Trademark Office will be payable to the Commissioner.
> (b) All fees paid to the Commissioner and all appropriations for defraying the costs of the activities of the Patent and Trademark Office will be credited to the Patent and Trademark Office Appropriation Account in the Treasury of the United States, the provisions of section 725e of title 31, United States Code, notwithstanding.
> (c) Revenues from fees will be available to the Commissioner of Patents to carry out, to the extent provided for in appropriation Acts, the activities of the Patent and Trademark Office.
> (d) The Commissioner may refund any fee paid by mistake or any amount paid in excess of that required." (PL 96-517, Sec. 3 (1980), amending 35 U.S.C. §42).

In addition, under the provisions of PL 96-517, Sec. 5, fees for the filing and processing of applications for the registration of trademarks would be "set and adjusted by the Commissioner to recover in aggregate 50 per centum of the estimated average cost to the Office of such processing."

USTA has never supported the fee structure of PL 96-517 because it opposes the concept of setting trademark fees on the basis of recovering a strict percentage of costs. USTA believes that in principle any formula for setting trademark filing fees that formally attempts to apportion costs on the basis of benefits received is ill-conceived. The nature of the trademark registration system makes it impossible to allocate the system's benefits to trademark owners or the taxpaying, consuming public and to accurately divide the Trademark Office costs between them. From a practical standpoint, a percentage fee structure is particularly difficult to administer and requires the PTO to expend its limited resources on computing the individual service costs of its operations appropriate for allocation. Furthermore, because government budgets in three-year cycles, all fee formulas are necessarily based on questionable predictions of future costs.*

Of greatest concern is that at the time PL 96-517 was under initial consideration, USTA was told that with respect to the appropriations process, this percentage fee recovery formula was intended as a means for improving the Trademark Office's deplorable operating condition. Because such fee revenues would augment, not replace, appropriations from general revenues, the Trademark Office would be assured of the funding it required. It appears that the fee provisions of PL 96-517 (and the proposed amendment to it) are being implemented to provide operating expenses rather than supplemental revenues for improvements.

The Trademark Office funding system on which the FY 1983 appropriations request before this Committee is based assumes that PL 96-517 will be amended and that the fee levels established will be doubled so that trademark owners (users) will pay 100% of trademark processing costs. The FY 1983 budget submission thus assumes this proposed amendment to PL 96-517 is a _fait accompli_ and that this change in the law will be interpreted to mean that _no_ general fund revenues will be needed to operate the Trademark Office. It expects that _all_ costs of administering and executing the Federal Trademark Statute will be recovered through fees imposed on those who file applications for the registration of trademarks.

Effect on U.S. Trademark System and Overall Economy

An appropriation request for the Trademark Office which contains no general fund revenues is contrary to the expressed purpose of the Federal Trademark Statute.

When taken in the context of "user fees" in general, a budget containing no general fund revenues for trademarks infers that those who file applications for the registration of marks or oppose the registration of another's mark are the only users and beneficiaries of the system. This is not the case.

The purpose and benefits of the trademark registration system, as provided in the 1946 Federal Trademark Statute, are identified in the 1946 Senate Judiciary Committee report on the Act:

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*Questions then arise as to what happens when unanticipated short falls in filings result in overestimated fee revenues that do not meet the percentage cost recovery levels mandated by statute? Are examiners fired? Does printing grind to a halt? Is the PTO given emergency authority to immediately increase fees one more time? Similarly, what happens when filings exceed expectation and fee revenues are greater than the statutorily-set percentage? Could applicants sue the government to receive a rebate for being overcharged? Would the PTO be forced to disperse its surpluses?

> "The purpose underlying any trade-mark statute is twofold. One is to protect the public so it may be confident that, in purchasing a product bearing a particular trade-mark which it favorably knows, it will get the product it asks for and wants to get. Secondly, where the owner of a trade-mark has spent energy, time and money in presenting to the public the product, he is protected in his investment from its misappropriation by pirates and cheats. This is a well-established rule of law protecting both the public and the trade-mark owner."

To demand that only those who voluntarily register their marks should pay all the costs of maintaining the trademark registration system as administered by the Trademark Office is to deny that members of the public benefit substantially from a complete and accurate register of the marks being used in commerce and that any effort on the part of the federal government to contribute to the creation of such a register is inappropriate.

Ownership rights in a trademark are based on use, not registration, and owners must actively work to protect these rights. Marks must be continually defended against pirates, cheats and inadvertent misuse. Failure to vigorously protect a mark can easily result in a loss of rights. Indeed, all judicial decisions denying these trademark rights, in whole or in part, are always based on the consumer confusion that results when an owner cannot or does not sustain a mark's singular identity.

The federal government's commitment to create a federal register of trademarks used in commerce evolved over a period of years as it became evident that a complete record of such marks would reduce the possibility of consumer confusion and decrease the occasions that businesses inadvertently claimed ownership rights in the same mark. The private sector was incapable and powerless to undertake such a task. Moreover, federal involvement was and remains necessary to create incentives for trademark owners to subject their marks to the federal registration process when their trademark interests are established by use and valid trademark rights are protected by common law.

The growing number of applications being filed each year is not, as OMB suggests, an example of "subsidized prices promot[ing] over-consumption leading to increased government costs and burdened government resources."* It is an indication that the federal trademark system's goal is being realized and that businesses are responding, as intended, to the incentives instituted by the federal government.

Should filing fees increase to such levels that costs would outweigh the incentives provided to the businesses that voluntarily register, opportunities for consumer confusion would increase, business confidence in marketing new products would decline and the courts would be called on with increasing frequency to settle disputes over the ownership of given marks. All of these conflict with the overall goals of economic recovery being pursued today.

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*Major Themes and Additional Budget Details, Fiscal Year 1983, p.217 (copy attached).

The FY 1983 Budget Request for the Trademark Office

Because the FY 1983 budget submission for the Trademark Office does not suggest a need for any general fund revenues, 1983 trademark applicants are being called upon to fund every expenditure of the Office. This is contrary to the Administration's own budget statements and requires that 1983 users pay the costs of program items for which they receive no direct benefits.

USTA does not purport to know what the costs of a first-class efficiently-run Trademark Office are but believes that some control must be retained by Congress to ensure that the costs of the Office do not increase unnecessarily. Because under the present proposal the Trademark Office will have fee revenues at its disposal, USTA encourages that limits on their use be instituted. USTA recognizes that a substantial increase in spending authority is needed to improve the Office's deplorable condition. However, this authority should be restricted and any additional authority to reprogram spending should be permitted only after careful oversight by this Committee or the Judiciary Committee. It is not the intent of USTA to tie the hands of the Commissioner of Patents and Trademarks but USTA does not believe it is appropriate for a government official to be given a blank check in the spending of fee revenues.

The FY 1983 budget request for the Trademark Office contains several items which USTA does not believe are appropriate for Trademark Office applicants to pay the costs of. Some of these are explained below:

Automating the Office, including the purchase of additional terminals, development of a machine-readable data base of all active trademark registrations, and other substantive program changes. Besides being capital expenditures, the PTO requested and was funded for these items in FY 1982.	$933,000
Overtime so that existing backlogs can be cleared (6 professional staff years, 12 clerical)	381,000
Equipment for new personnel.	151,000
The Trademark Trial and Appeal Board, which serve a quasi-judicial function and exists as an alternative to the federal district courts.	984,000
Printing costs associated with the publication of marks for which registration is sought in order to give the public an opportunity to oppose registration.	802,000
Maintaining the Trademark Search room (estimate)	300,000
Executive Direction and Administration costs that are necessary to execute the law.	1,201,000

USTA is not alone in its belief that the costs of these items are not appropriately recoverable through fees. When the House Judiciary Committee considered HR 6933, which was to become PL 96-517, certain items were to be carved out and not included when fees were determined. Quoting from the Committee report:

> "Certain costs of operating the PTO confer no direct benefit on applicants but rather go to meet the responsibility of the Federal Government to have a PTO in order to execute the law. For example, the costs of executive direction and administration of the office, including the Office of the Commissioner and certain agency offices involved with public information, legislation, international affairs and technology assessment. Maintaining the public search room confers a general public benefit ... ."

OMB echoed this sentiment in its _Major Themes_ publication when it explained the amendment proposed to PL 96-517:

> "The proposed change would increase fees charges from the current 50 percent to 100 percent of _application processing costs_ ... . The Federal Government would continue to fund the public search room and other non-processing functions ... . These changes are proposed as part of the administration's effort to impose or increase user fees where a service provides special benefits to an identifiable recipient above and beyond those that accrue to the general public." (emphasis added) (_Supra_ at p. 220)

The Administration's view of the contribution a first-class trademark operation makes to the economy is apparent throughout the budget submission for the Trademark Office. Quoting from pages PAT 64-65:

> "In order to meet the administration's goals of strengthening the American economy, the Department of Commerce has determined that improving the quality and timeliness of patent and trademark production and services ... is essential. [P]rogram improvements [directed] toward establishing the stature of the United States patent and trademark [systems] equal to the United States position in the world economy ... are sought."

The PTO's FY 1983 budget does not provide funding for even the most skeletal trademark system. In short, the Administration is not only suggesting that trademark applicants underwrite all the costs associated with the processing of applications, it is expecting them to pay all of the costs of maintaining the system, executing the law and operating the Trademark Office.

USTA Recommendation

USTA urges that this Committee support a minimum appropriation of $4 million for the Trademark Office. Because the Administration's request for the entire PTO of $68,086,000 contains _no_ money for the trademark operations, USTA's recommendation would translate into a total PTO appropriation of $72,086,000.*

USTA does not believe that $4 million is too high a price to pay for an Office that serves such a sizable public benefit. This amount represents a reduction in appropriations from FY 1982 levels of over 50%, yet it retains the federal government's commitment to the creation of a complete and accurate register of marks used in commerce.

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*This does not reflect any additional monies that may be sought by the patent community.

In order for the Trademark Office to have sufficient revenues to process applications for the registration of trademarks, USTA supports a substantial increase in the amount of fees paid by applicants. These fees would result in receipts of approximately $11 million, an increase of from $8 to $9 million over last year. Notwithstanding, USTA cannot support a fee increase of this magnitude if Congress does not retain some control over how the fee revenues are spent. Consequently, it urges this Committee to establish firm limits on how these monies are expended.

USTA is grateful for the opportunity to present its position and thanks the Committee for its attention. It is confident that this Committee will give full consideration to an appropriation for the Trademark Office which reflects the significant contribution it makes to the economic well-being of the nation. USTA makes itself available to the Committee to answer any questions it may have.

[FROM MAJOR THEMES AND ADDITIONAL BUDGET DETAILS, FISCAL YEAR 1983]

CHAPTER 7
USER FEES

The Federal Government provides numerous services that directly benefit narrow, clearly identifiable groups of business and private users. However, because these services evolved over time — the first navigation aids for ships began in 1789; permanent disposal sites for radioactive waste from nuclear power plants will begin operating nearly two centuries later — the Federal agencies providing these services recover widely varying proportions of their costs through fees on the users.

Last September, President Reagan announced that the Administration would apply uniform principles of cost recovery to the current patchwork of user fees for Federal services. The President directed all Federal agencies to:

- review their activities to determine the extent to which benefits accrue to clearly identifiable users; and
- seek to recover the cost of providing those benefits through the use of specific fees instead of placing the burden on the general taxpayer.

In the 1983 Budget, President Reagan has proposed to increase or institute 15 categories of user fees. Such fees are expected to reduce the revenue required from general taxes to support subsidized services by $2.5 billion in 1983 and $3.5 billion in 1984.

Inconsistency in Past Federal Policy

Past Federal policy toward the recovery of cost from clearly identifiable groups receiving program benefits has been inconsistent. In some cases, few if any costs are recovered; in others close to 100% of program costs are obtained. Without the changes the President has proposed, there will be continued subsidization of particular businesses and individuals who receive Federal services. Examples of inconsistencies include:

- The nation-wide system of barge canals and waterways is a service that the Federal Government provides without recovering more than a small fraction of its costs. In 1981, the Corps of Engineers spent $700 million to build and maintain inland waterways. The barge operators and other users of the system paid only $20 million in fees to offset these costs, approximately 3%.

  By contrast, the users of the Federal Highway system have been supporting its construction through a dedication of the Federal gasoline tax, diesel taxes, and other excise taxes on highway users since the Highway Trust Fund was established in 1956. Unlike the inland waterway users, highway users paid 100% of the cost of the Federal highway program in 1981.

- Another example of the inconsistency in current Federal user fee policy under current law concerns the services the Federal Government provides to the electric utility industry. Work on the disposal of waste from nuclear plants is currently funded entirely by the general taxpayer. In 1981 the Federal Government spent $174 million on developing commercial nuclear waste disposal facilities and brought in no offsetting receipts from the electric utility industry.

  Yet, at present, Federal agencies supply utilities with enriched uranium fuels for nuclear generating plants under arrangements that recover all of the costs of production over time. In 1981, the uranium enrichment program spent $1.59 billion and collected $1.25 billion in fees.

- In 1981 $7 million was collected from general aviation users for aeronautical charts purchased from the National Oceanic and Atmospheric Administration. Although they paid an average of $1.15 for each of these charts, it cost the Federal Government $4.00 per chart to prepare and distribute the charts. The general taxpayer thus picked up more than two-thirds of the cost of providing this service to the aviation industry. The general taxpayer also subsidizes in a higher proportion the sale of nautical charts to yacht owners and commercial shippers.

  By contrast, the Federal Government collects 100% of the cost of providing consular services to U.S. citizens in foreign countries through user fees. Such consular services include notorization and authorization, copying and recording of documents, and preparing and sending of messages.

Advantages of User Fees

User fees have several important advantages over the use of general revenue financing for the provision of government services. The advantages include:

- enhanced equity;
- increased economic efficiency; and
- alleviation of Government's competitive advantage over the private sector.

Enhanced Equity. Those identifiable groups who directly benefit from the existence of a service should pay that portion of the cost of providing the service rather than the general taxpayer. The beneficiaries of the services for which the Administration is instituting new or increased fees consist in general of corporations or the relatively affluent. By charging these groups directly, we can avoid the necessity of imposing additional taxes on lower- and middle-income citizens. Examples of user fees which promote enhanced equity include:

- *Fees for NOAA Aeronautical and Nautical Maps and Charts.* Currently, the National Oceanic and Atmospheric Administration provides commercial and private owners and operators of all types of aircraft and vessels with maps and charts at a price that is less than one-third the cost of production and distribution. This proposal would gradually increase prices for maps and charts to achieve full cost recovery by 1985. Additional revenues generated by this policy amount to $14 million in 1983 and $44 million by 1985.

- *Coast Guard User Fees for Operating Expenses.* At present, nearly all services rendered by the Coast Guard for the general public are provided without charge, including issuing licenses, inspecting facilities, certifying vessel construction, maintaining aids to navigation, providing rescue assistance service, and other services. Boat and yacht owners and the maritime community are well defined groups benefitting directly from these services. Legislation will be proposed in early 1982 that would authorize the Secretary of Transportation to initiate fees for certain Coast Guard services. Fees for direct services involving a transaction (e.g., licenses and inspections) would be set according to the cost of providing the service. Other services (e.g., maintaining navigation aids and providing search and rescue services) would be financed by an annual fee or other type of charge. Revenues generated by this proposal amount to $200 million in 1983 and full cost recovery of $800 million in 1984.

- *Corps of Engineers Navigation User Fees.* Locks, dams, and channels are constructed and maintained by the Corps of Engineers and TVA for barge traffic on inland waterways. The Corps also dredges harbor channels and constructs and maintains other facilities for ocean-going and Great Lakes traffic. Construction and upkeep of both inland and deep draft waterways have traditionally been provided at near zero cost to commercial users. Such a benefit is a subsidy to the multi-billion dollar waterborne transportation industry. In the 1982 Budget, the Administration proposed legislation for user fees to recover new construction and maintenance expenses for commercial projects. Congress has thus far failed to enact such fees. Such fees would bring in $448 million in additional revenues in 1983.

- *Fees for Commercial Nuclear Waste Disposal.* The Federal Government is responsible for assuring permanent disposal facilities for high level radioactive waste resulting from the generation of electricity by nuclear power plants. The development of these facilities is currently being financed by the taxpayer. Legislation is now pending in Congress that will mandate a fee (one mill per kilowatt hour) on electric utilities that are generating nuclear waste. The income generated will be used to establish a fund for developing underground geologic repositories. Such a fund will support a business-like, self-sustaining operation for waste disposal. Revenues from the fee are expected to be $300 million in 1983.

- *Fees for Energy Regulatory Licenses and Services.* The Federal Energy Regulatory Commission (FERC) issues permits and licenses and sets rates for producer sales of natural gas, operation of oil and natural gas pipelines, development of hydroelectric power, and interstate wholesale sales of electric power. Fees are now charged for pipeline and hydropower activities. Under this proposal new fees will be charged to companies making license and other applications to the FERC. Fees will be extended to services such as electric and natural gas rate determinations not now under fees. For services such as pipeline approvals and hydropower licenses, existing fees will increase substantially. It is expected that these proposed changes will bring in an additional $35 million in offsetting receipts in 1983 if enacted.

Increased Economic Efficiency. Since government services are subsidized, the price paid by the consumer of those services is below the cost of providing the service. Subsidized prices promote over-consumption leading to increased government costs and burdened government resources. Further, subsidized benefits can lead to an inefficient allocation of available Federal Government resources. By providing direct benefits to one type of business (or group of individuals) at no cost, the government is in effect putting competing businesses at a disadvantage. Such a distortion leads to an over-allocation of resources to the subsidized business and an under-allocation of resources to the non-subsidized business. Examples of proposed user fees that can lead to increased economic efficiency include:

- *Patent and Trademark Fees.* The Patent and Trademark Office (PTO) assists and encourages the development of business and industry by providing protection to individuals for inventions and registering trademarks. PTO receives over 100,000 patent applications and over 50,000 trademark applications annually. A growing backlog of applications has resulted in ever-increasing turnaround time for the issuance of patents. This proposed change would increase fees charged from the current 50% to 100% of application processing costs in order to have those individuals who benefit from patent/trademark protection pay the cost of the service. Increased revenue from fees will result in a more prudent use of resources and permit enhanced program operations to reduce application processing time. Increased revenues resulting from this proposal are estimated to be $39 million in 1983.

- *User Fee for Grievance Arbitration.* Currently, the Federal Mediation and Conciliation Service (FMCS) provides lists of qualified arbitrators to parties in dispute over terms of a collective bargaining agreement. In 1981 FMCS issued about 33,200 lists of arbitrators. The National Mediation Board (NMB), in connection with railroad industry grievances under collective bargaining agreements, compensates and pays expenses of neutral referees, appoints neutral referees when parties do not agree to one, and maintains offices for the National Railroad Adjustment Board. Under this proposal, a general provision would be added to the Labor-HHS appropriation bill enabling and requiring both agencies, beginning in 1983, to charge users of these services a fee equal to the total costs of Federal services. Requiring parties to pay for these services is expected to slow the rate of increase in arbitration caseloads and lead parties to find less costly and more productive ways of handling grievances. Such a proposal is expected to bring in $1 million in 1983 to completely offset these program costs.

- *Veterans Housing Loan Guarantee User Fee.* The Veterans Administration's Loan Guarantee Program provides guarantees to lending institutions for residential housing loans made to veterans. An average of 330,000 loans are guaranteed each year. This proposal would require payment of a 0.5% funding fee at the time of settlement on each loan guaranteed. Such a fee would help decrease the cost of this program to the government. It is expected that this proposal will bring in an additional $95 million in offsetting receipts in 1983 if enacted.

- *Commodity Futures Trading Commission User Fees.* The CFTC is an independent regulatory agency whose purpose is to encourage the efficiency of the futures market, to assure their integrity and to protect participants against abusive trade practices, fraud, and deceit. The CFTC plans to initiate actions to recover the full cost of regulatory operations. Recovery of the cost of CFTC regulation (some $23 million in 1983) through transaction fees and licenses transfers the regulatory cost from the general taxpayer to the identifiable beneficiaries. Growth in the markets to be regulated increases demands on available resources for regulation.

Alleviation of Government's Competitive Advantage Over the Private Sector. When the Federal Government subsidizes services that are provided in the private sector it can lead to an unfair competitive advantage which can cause the private sector to under-supply such services. Examples of user fees that can lead to an alleviation of government's competitive advantage over the private sector include:

- *Recreation User Fees.* Several Federal Government agencies provide recreational facilities for the public at a fraction of the cost of providing them. Under this proposal existing entrance fees at Federal recreation areas will be increased, and the number of areas where fees are charged will be expanded. Increased recreational user fees for public facilities will lessen unfair competition with private recreation developments which have to recover all of their costs without direct subsidies. It is expected that increased fees will bring in more than $60 million in additional offsetting revenues in 1983.

- *GNMA Mortgage-Backed Securities-Fees.* The Government National Mortgage Association (GNMA) Mortgage-Backed Securities program provides Federal guarantees on securities backed by FHA, VA, and FmHA mortgages. GNMA now charges a commitment authority application fee of $500 per pool package of commitments. This fee has not increased since it was established in early 1971. Increased fees will bring in an additional $4 million annually in offsetting receipts in 1983 and help offset the competitive disadvantage of private sector mortgage-backed securities programs.

Additional Benefits Provided by User Fees

User fees can provide additional program benefits in that they generate revenues which can be used to enhance funding resulting in increased program development, operation, and efficiency. Examples include:

- *Aviation User Fees.* The Administration is proposing legislation that would increase the ticket tax on scheduled air carrier flights and general aviation fuel taxes and reinstitute other aviation taxes to their pre-1981 levels. Receipts from these taxes would be deposited into the Airport and Airway Trust Fund. Historically, the trust fund has paid for about 40% of FAA expenses including all FAA capital programs plus certain field maintenance costs. The increased user fees are coupled with an administration proposal to increase capital funding levels and finance 85% of total FAA costs from the trust fund — i.e., all FAA costs attributable to air carriers and general aviation. This proposal reflects the Administration's commitment to modernizing the National Airspace System if the users pay all allocable costs of development, acquisition, operation and maintenance. The proposal is expected to bring in almost $1.2 billion in additional offsetting receipts in 1983.

- *Patent and Trademark Fees.* The Patent and Trademark Office (PTO), which provides patent protection to individuals for inventions and registering trademarks, has experienced a growing backlog of applications resulting in ever-increasing turnaround time for the issuance of patents. Increased fees will be used to offset the costs of improved PTO service. Program expansion will permit a reduction of application processing time. Fee-derived revenue will also permit development of a fully-automated application processing system in subsequent years to further improve service and maintain or reduce costs.

Cases Where User Fees Will Not Be Applied

In cases where the general public is the recipient of the benefits of a Federal program rather than a clearly identifiable group, user fees will not be imposed. Further, in instances where collection of user fees is infeasible or not cost-beneficial, user fees will not be implemented. Some examples include:

- *The Patent and Trademark Office.* Patent protection serves the public by providing an incentive to disclose new technology. Disclosure of this information is a key to increased productivity and economic growth. Since the details of the invention are made public in the files of the PTO public search room, the cost of this and similar activities will be borne by general tax revenues.

- *Coast Guard Services.* User fees will not be proposed for those services that benefit the public in general. Such services include military readiness, enforcement of laws and treaties, and marine science.

- *Recreational Services.* Appropriate fees will be raised and/or charged at those areas and facilities where they can be administered economically. It is not feasible to collect fees at every recreational area as many of the areas are too small, remote, or sporadically used. Many of the areas may have access through a large number of entry points and staffing the entrances would be uneconomic.

Summary of the 1983 Proposals

By instituting the fees described above, the Administration will:

- Reduce the revenues required from general taxes to support subsidized services to clearly identifiable groups by over $3 billion.
- Apply consistent principles of cost recovery to all agencies supplying services.
- Reduce subsidies to business and other private users of Federal services.
- Encourage a prudent utilization of Federal Government resources.
- Alleviate Government's competitive advantage over some private sector businesses.
- Enhance program efficiency and quality of service.

Patent and Trademark Fees

AGENCY: Department of Commerce FUNCTIONAL CODE: 376

Funding

	($ in millions)						
	1981	1982	1983	1984	1985	1986	1987
PROGRAM LEVEL:							
Budget Authority	116	121	155	167	176	182	182
Outlays	112	120	152	163	172	178	178
OFFSETTING RECEIPTS:	—	—	87	96	105	113	117
Current Law	—	—	48	53	57	62	64
Policy Increase	—	—	39	43	48	51	53
PERCENT RECOVERED (BA):	—	—	56	57	60	62	64
Current Law	—	—	31	32	32	34	35
Policy Increase	—	—	25	25	28	28	29

Program Description

The Patent and Trademark Office (PTO) assists and encourages the development of business and industry by providing patent protection to individuals for inventions and registering trademarks. PTO receives more than 100,000 patent applications and more than 50,000 trademark applications annually.

A growing backlog of applications has resulted in ever-increasing turnaround time for the issuance of patents. Without the changes described below, it will continue to take more than two years to process a patent application, with an average increase of two months per year for 1983 and beyond.

Proposed Change

The proposed change would increase fees charged from the current 50% to 100% of application processing costs. The purpose of the change is to have those individuals who benefit from patent/trademark protection pay the cost of the service. In the case of patents, 50% of the processing cost would be recovered prior to issuance of the patent and 50% would be recovered through maintenance payments over the 17-year life of the patent. Approximately 15 years after the fees are instituted, full cost recovery for patent processing would be achieved. Increased fee revenues would be invested in program operations to reduce processing time. The Federal Government would continue to fund the public search room and other nonprocessing functions such as U.S. representation at international patent meetings and the expenses of the commissioner's office.

Rationale

- These changes are proposed as part of the Administration's effort to impose or increase user fees where a service provides special benefits to an identifiable recipient above and beyond those that accrue to the general public.

- The 17-year monopoly provided by patent protection enables the patent holder to obtain exclusive and substantial returns from commercial application of the invention. Therefore, 100% of the costs of processing the patent is a fair charge for the benefits received. In addition, since 50% of cost recovery occurs through maintenance payments, the patent holder has the option of allowing the patent to lapse (by stopping payment) if the invention is not profitable.

- Patent protection also serves the public by providing an incentive to disclose new technology. Disclosure of this information is a key to increased productivity and economic growth. Since the details of the invention are made public in the files of the PTO public search room, the cost of that and similar activities should be borne by general tax revenues.

- By increasing fees and initiating maintenance payments, the U.S. system of fees would generally be in line with the systems in other industrialized countries. Therefore, no relative disincentive to using the U.S. system should result, especially in light of the size of the U.S. market.

- In the context of severe fiscal constraint, the goal of efficient and effective patent and trademark systems is not attainable without the increased fees proposed.

Effects of the Proposed Change

- In most areas, the user fees proposed will not even keep pace with past inflation. The average patent filing fee established by the Congress in 1965 was $85. Simply escalated by the growth in the average salary of a patent examiner, that $85 in 1965 is equivalent to about $400 in 1984. The average filing fee projected under the Administration's proposal is $330. The average $145 patent issue fee in 1965, when similarly escalated, would be about $700 in 1984, or roughly 42% more than the proposed $500 issue fee. The proposed fees for other PTO services follow a similar pattern.

- Increased fees will be used to offset the costs of improved PTO service. Program expansion will permit a reduction of processing time to 18 months by 1987 for patents and 13 months by 1985 for trademarks. These are considered to be the optimum processing times for patent and trademark applications. Fee-derived revenue will also permit development of a fully-automated application processing system in future years to further improve service and maintain or reduce costs.

STATEMENT OF JOSEPH A. DEGRANDI

I am Joseph A. DeGrandi, Chairman of the Section of Patent, Trademark and Copyright Law of the American Bar Association. My Statement on S. 2211, the Bill to Authorize Appropriations to the Patent and Trademark Office in the Department of Commerce, is being presented solely on behalf of the Section of Patent, Trademark and Copyright Law and does not represent the position of the American Bar Association itself. To date, the Section's views on the proposed budget for the United States Patent and Trademark Office for the Fiscal Year 1982-1983 have not been submitted to -- and therefore have neither been approved nor disapproved by -- the House of Delegates or Board of Governors of the American Bar Association.

The Section of Patent, Trademark and Copyright Law, which consists of approximately 6,000 lawyers, essentially all of whom are in private or corporate practice, fully supports the position of the Administration, as presented through the Department of Commerce, that the Patent and Trademark Office should be funded for Fiscal Year 1983 at a level of approximately $155,000,000.* With such level of funding, the program proposed by Commissioner Gerald J. Mossinghoff to begin upgrading the Patent and Trademark Office will be off to a good start.

The Section fully agrees with the Commissioner's goal that the United States have a first-class Patent and Trademark Office issuing high-quality patents which are enforceable in the federal courts and that such goal should be attained as promptly as possible.

The Section also agrees with the Administration that the level of fees paid to the Patent and Trademark Office by patent and trademark applicants and owners should be substantially increased,** particularly since such fees have remained unchanged since 1965.

To achieve the necessary level of funding for Fiscal Year 1983, our Section submits that PTO fees should be set statutorily by Congress, generally along the lines set forth in Resolution 11B (see Appendix), with the remainder of the amount necessary to reach the $155,000,000 funding level coming from Congressional appropriations. These proposed fees are generally along the lines proposed by the Commissioner of Patents and Trademarks except that the suggested base patent filing fee and base patent issue fee are $200 and $400 respectively, or $100 less for each fee than what the Commissioner plans to establish for Fiscal Years 1983-1985 under S. 2211. The Section's proposed schedule in Resolution 11B includes patent and trademark fees in addition to those proposed by the Commissioner, so as to permit reductions in some of the higher fees which the Commissioner otherwise would establish.

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* See Resolution 11A in Appendix.
** See Resolution 4 of Appendix.

The Section strongly disagrees with that part of S. 2211 which permits the Commissioner of Patents and Trademarks to set fees every three years and also to that part which permits the Commissioner to recover by such fees substantially the entire costs of operating the PTO. The premise upon which the Administration seeks to justify its position for funding PTO operations essentially entirely by fees, namely that inventors and patent and trademark owners are the principal beneficiaries of the patent and trademark systems, is clearly erroneous and untenable. The unsoundness of the Administration's position was amply demonstrated in our Section's Statement submitted March 17, 1982 to this Subcommittee. We requested that that Statement be made a part of the record of the hearings on S. 2211. Further evidence rebutting such Administration position is set forth later in the present Statement.

Passage of S. 2211 in its present form, where the Commissioner of Patents and Trademarks eventually sets fees to a level sufficient to substantially fund all of the PTO operations, will have an extremely adverse effect on invention and innovation and will result in pricing most individual inventors and small businesses out of using the patent system and from registering their trademarks with the Patent and Trademark Office.

Prior to the enactment of Public Law 96-517 on December 12, 1980, the minimum fee paid to the PTO by an inventor to obtain a patent for the full term of 17 years was $175. Under Public Law 96-517, which is to become effective on October 1, 1982, the Commissioner is authorized to set fees to recover 25% of the estimated average cost to the Office of processing a patent application from filing to issuance as a patent, or abandonment. For design patents, he was to recover 50% of such costs.

By the fifteenth year after enactment of Public Law 96-517 the Commissioner is to recover an additional 25% of the estimated cost to the Office for actual processing of patent applications, other than design patent applications, from their filing to issuance as patents, or abandonment. This additional 25% is to come from maintenance fees, payable 3-1/2, 7-1/2 and 11-1/2 years after the granting date of the patent.*

The Commissioner is also authorized by Public Law 96-517 to establish fees for the filing and processing of trademark applications and for other trademark services so as to recover 50% of the estimated cost to the Office for such processing.

The public, which is the principal beneficiary of the patent and trademark systems, was to have paid the remainder of the costs of operating the PTO.

The patent and trademark bars throughout the country recognized the need for increased fees at the time the pending Bill, which became Public Law 96-517, was being considered. Our Section approved two resolutions** at its Annual Meeting in August, 1980 which in effect supported the PTO and the Administration positions regarding Public Law 96-517. While the Section had previously opposed giving the Commissioner authority to set fees to recover a percentage of the cost of operating the PTO, and had also opposed maintenance fees, it agreed in 1980 to support the then pending Bill, recognizing that in order to reverse the deteriorating conditions in the PTO, more money was needed and that patent and trademark applicants and owners would have to bear a fair and reasonable share of the increased PTO costs through increased fees.

For each of Fiscal Years 1980, 1981 and 1982, Congress had appropriated approximately $120,000,000 to the PTO, and the PTO collected approximately $30,000,000 in fees each of those years which were paid into the U.S. Treasury. Our Section firmly believed that the level of funding appropriated by Congress for Fiscal Year 1983 would be increased to reflect the additional income to be produced by the increased fees. Having thus supported Public Law 96-517, and knowing that the fees would be increased effective October 1, 1982, the public, including patent and trademark applicants and owners, have never been told what those fees would be.

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* Maintenance fees are a direct tax on the patent owner. In the Department of Commerce 1965 publication entitled "The Story of the United States Patent Office", celebrating the 175th anniversary of the first Patent Act in 1790, the Department, after acknowledging the rights given to the inventor for 17 years under a U.S. patent, boasted "In contrast with many foreign governments, the United States does not tax patents, nor does it impose other conditions on the patentee."

** Resolutions 103-4A and 103-5 of Appendix.

After cooperating with the PTO to get such increased funding in 1980, we were very disturbed to learn in November of 1981 that the Administration did not intend to permit Public Law 96-517 to go into effect.* Instead, the Administration asked for an approximate 43% reduction in appropriations for the PTO (from $120,000,000 to $68,086,000) for Fiscal Year 1983 and also asked that the Law be changed so that the Commissioner will be authorized to establish fees which will eventually recover substantially 100% of the cost of the PTO operations.

Under the fees proposed by the Commissioner for Fiscal Year 1983, which fees will remain in force for three years before they can be changed again by him, the minimum fees to be paid for obtaining a patent for a full term of 17 years will be $3200.** As operating costs for the PTO increase each year due to inflation, annual salary increases, increased printing costs, increased rental for PTO space, additional equipment, such as dictating machines for Examiners, computers, word processors, etc., the fees must be increased in order to recapture such costs.

Our Section is also disturbed to note that S. 2211 essentially fails to provide any funds for the trademark operations of the Patent and Trademark Office. The operation of the trademark functions, including processing trademark applications to issuance as registrations, or to abandonment and the maintaining of the Trademark Trial and Appeal Board, will be exclusively supported by fees paid by trademark owners under S. 2211. Such owners will be forced to pay all of the costs of the trademark operations in the PTO, not just those directly associated with the acquisition and maintenance of the registrations. This is contrary to what is presently in Public Law 96-517.

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* See Resolutions 9 and 10 of Appendix, which rescind Resolutions 103-4A and 103-5. See also Resolution 3 of Appendix which opposes legislation requiring the recovery through fees of any stated percentage of the costs of PTO operations. To estimate costs three years in advance requires difficult, expensive and time-consuming cost accounting analysis that includes factors which are incapable of exact determination in advance. Furthermore, a provision for the recovery of a percentage of costs tends to promote inefficiency in operations. There is little incentive to economize because additional expenses can be recovered (at least in part) simply by raising fees.

** This is the sum of the proposed $300 filing fee, $500 issue fee, and maintenance fees of $400, $800 and $1200 payable 3-1/2, 7-1/2 and 11-1/2 years, respectively, after issuance.

Congress, in passing the Trademark Act of 1946, commonly known as the Lanham Act, recognized the benefits to the public of having a trademark statute. Such statute protects the public against fraud, deception and unfair competition so that the public may be confident that when purchasing a product bearing a particular trademark, it will get the product it asks for and wants to get. The trademark statute provides incentive to the majority of trademark owners to register their marks so that others who desire to select new marks can find them and avoid the selection of confusingly similar marks. That the system is working well is evidenced by the ever increasing number of trademark applications which are being filed each year.

Under our Section's proposal, the public, through appropriations, would pay its reasonable share of the costs of operating the Patent and Trademark Office and the inventors and patent and trademark owners would also pay the substantially increased fees set forth in Resolution 11B, which fees would be set by Congress.

It is our understanding that in arriving at his proposed fees for Fiscal Years 1983-1985, the Commissioner and his staff, together with the budget people in the Department of Commerce, have conducted a time-consuming cost accounting analysis, which has had to take into consideration factors which are incapable of exact determination in advance, and then have built in a cushion to cover unexpected contingencies which may arise over the next three years to make sure that the fees collected will be sufficient to cover the estimated costs. The fees which the Commissioner has proposed are thus higher than would otherwise have been the case.

For each of Fiscal Years 1986-1988 the fees under S. 2211 will have to be adjusted upwardly to cover the higher costs enumerated above, particularly since the PTO becomes more dependent on fees to cover the cost of its operations and less dependent on Congressional appropriations.

Included in the costs for PTO operations will be capital expenditures for equipment, such as computers, dictating machines, word processors, etc. It never was the understanding of our Section when it supported Public Law 96-517 that the patent and trademark applicants and owners would be expected to pay any more than 50% of the "actual processing" of patent and trademark applications. It is totally unfair to have such applicants and owners pay the high cost of capital equipment.

Under the fees proposed by our Section,* the minimum fees for obtaining a patent for a full term of 17 years will be $3000.** Under the Section's proposal, an inventor would pay a minimum of $900 in fees to obtain his patent and retain it for 7-1/2 years before the second maintenance fee or tax of $750 would be due.

Most importantly, however, under our Section's proposal, the fees would be set by Congress and could only be changed by Congress. Our Section believes that such fees should remain in effect for a period not in excess of four years, so that Congress will be required to review PTO fees at least at four-year intervals.*** Thus, every four years the Patent and Trademark Office will have its performance reviewed by Congress and Congress can determine whether the programs previously proposed by the Commissioner in support of higher fees are being carried out and, if not, why not. More importantly, while such review is being conducted, the patent and trademark owners and their attorneys can also be heard by Congress. After all, who is closer to day-to-day operations of the Patent and Trademark Office than the members of the bar who are representing inventors and patent and trademark owners before the PTO on a daily basis and who have immediate, first-hand knowledge of what is occurring, where the problems are and can offer constructive suggestions?

Our Section has grave concerns about the adverse effect that high patent fees will have on independent inventors and small businesses, and, consequently, on the creation of more jobs in the United States, particularly in these times of high unemployment. Recently Catherine England, an economist with The Heritage Foundation, stated:****

> "The contributions of small businesses to the American economy are impressive: 97 per cent of all firms, 43 per cent of the gross national product, 73 per cent of retail sales, 76 per cent of construction dollar volume, and 58 per cent of private non-agricultural employment."

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* Resolution 11B of Appendix.

** This is the sum of the $200 filing fee, $400 issue fee and maintenance fees of $300, $750 and $1350 payable 3-1/2, 7-1/2 and 11-1/2 years, respectively, after issuance.

*** Resolution 7 of Appendix.

**** The Daily Record, Baltimore, Tuesday, March 23, 1982.

In her article, she referred to a survey of 5.6 million firms by MIT which found

> "that between 1969 and 1976 those companies with less than twenty-one employees created 66 per cent (net) of all new jobs (new employment less jobs lost). During that period, firms with 500 or less employees created 87 per cent (net) of all new jobs."

The author also referred to a report of the Office of Management and Budget stating that

> "---between 1953 and 1973 firms with less than 1000 employees accounted for 50 per cent of all major U.S. innovations. These small businesses produced four times as many innovations per research and development employee as did larger firms. During that period small firms produced twenty-four times as many major innovations per R&D dollar as did those with more than 10,000 workers."

It is the small businesses which create the bulk of the new jobs which will be hurt the most, if, in seeking patent protection for their inventions, they must pay the high fees necessary to bear substantially 100% of the cost of operating the PTO.

Most small businesses are begun by one or more individuals with an idea and the hope that by hard work and perserverance they can get started in a business and eventually, hopefully, begin to make money. The history of industrial growth in the United States is based on the successes of individual inventors who risked all on their inventions and who established small businesses, some of which have grown into today's large businesses and industries.

Inventors should always be encouraged to file for patents. Even though many inventors do not ever achieve a return equivalent to the amount spent on obtaining their patents, the hope of success is always there when they file their patent applications. Those inventors who have been successful are the ones who have changed the manner in which we now live in the United States and others live throughout the world.

Tributes to inventions, inventors and the patent system have come from all three branches of our Government. Our founding fathers recognized the importance of patents when they adopted, without dissent, at the Constitutional Convention, the vital provision in Article 1, Section 8, that Congress shall have the power

> "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

One wonders where our country would be today without the wisdom and foresight of those who incorporated that important provision into our Constitution.

President George Washington, addressing Congress on January 8, 1790, said in support of the pending Bill to establish a patent system

> "...I cannot forbear intimating to you the expediency of giving effectual encouragement as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home."

Thomas Jefferson who as Secretary of State, together with the Secretary of War and the Attorney General, comprised the Board responsible for granting patents under the Patent Act of 1790, and who, according to available records, made a personal examination of all the applications that came before the Board, stated:

> "The issue of patents for new discoveries has given a spring to invention beyond my conception."

In 1824, Daniel Webster in a speech in Congress, declared that

> "invention is the fruit of a man's brain, that industries grow in proportion to invention, and that therefore the Government must aid progress by fostering the inventive genius of its citizens."

President Abraham Lincoln, himself a patent owner, recognized the importance of the patent system when he stated:

> "The Patent System added the fuel of interest to the fire of genius."

President Franklin D. Roosevelt appreciated what the patent system did for the country during his years in Office when he stated:

> "The American Patent System has promoted countless applications of the arts and sciences to the needs and well-being of our people."

He paid special tribute to the patent system during World War II, stating:

> "Patents are the key to technology, technology is the key to production, and production is the key to victory."

President Dwight D. Eisenhower best summed up the patent system, saying:

> "Soundly based on the principle of protecting and rewarding inventors, this system has for years encouraged the imaginative to dream and to experiment--in garages and sheds, in great universities and corporate laboratories. From such explorations on the frontiers of knowledge has welled a flood of innovations and discoveries which have created new industries and reactivated old, giving more and more Americans better jobs and adding greatly to the prosperity and well-being of all."

Even the United States Supreme Court acknowledged the importance of the patent system when it stated:

> "The economic philosophy behind the clause empowering Congress to grant patents and copyrights is the conviction that encouragement of individual effort by personal gain is the best way to advance public welfare through the talents of authors and inventors in 'Science and useful Arts.' Sacrificial days devoted to such creative activities deserve rewards commensurate with the services rendered." Mazer et al v. Stein et al, 347 US 201, 74 S.Ct. 460 (1954).

A former Secretary of Commerce stated in the foreword of the 1969 publication of his Department entitled, "Do You Know Your Economic ABC'S?":

> "The United States patent system, which is as old as our Constitution, has a profound effect upon the lives of all Americans. It gives the creative among us an opportunity to profit from their inventions; it provides the foundation and means for industrial growth through the continuous development and protection of new products and processes. By stimulating innovation, it brings employment for millions of our citizens and greater conveniences and comforts for all."

The same publication credits inventions for creating jobs, stating:

> "It is obvious that the industries which our inventors and their patents bring about are responsible for the creation of jobs. Tens of millions of American workers can trace their jobs directly to inventions; almost no jobs can be found that are not due, in some measure, to patented inventions put to use in industry."

This same Department of Commerce, four years earlier in its publication "The Story of the United States Patent Office", published in 1965 in commemoration of the 175th anniversary of the first Patent Act of 1790, said in the Foreword:

> "Under the Patent System American Industry has flourished. New products have been invented, new uses for old ones discovered, and employment given to millions.
>
> Under the Patent System a small, struggling nation has grown into the greatest industrial power on earth.
>
> The Patent System is one of the strongest bulwarks of democratic government today. It offers the same protection, the same opportunity, the same hope of reward to every individual. For a hundred and seventy-five years it has recognized, as it will continue to recognize, the inherent right of an inventor to his government's protection. The American Patent System plays no favorites. It is as democratic as the Constitution which begot it.
>
> * * *
>
> The Patent System is the best, most workable method as yet devised for protecting inventions, fostering industrial and technical progress, and ultimately giving the world the benefits of the individual inventor's genius."

This is the same Department of Commerce which today has taken the contrary position that the public does not benefit from the patent and trademark systems and that the principal beneficiaries are the patent and trademark owners.

The founding fathers gave to Congress the power to promote the progress of science and the useful arts. Under that power Congress created the Patent and Trademark Office and eventually assigned jurisdiction of it to the Department of Commerce. Unfortunately, over the last fifteen to twenty years, the PTO has been treated as a neglected stepchild by several Administrations who have systematically undercut its budget and decreased its personnel. It did not bother such Administrations or even Congress that Examiners were writing their decisions in longhand. It was not until March 31, 1982 that enough word processors were finally installed to permit the typing of all such decisions.

The country which has led the world in computer technology has not even permitted its Patent and Trademark Office to computerize all of its operations. Most of the searches are still being done manually by Examiners. The Commissioner of Patents and Trademarks, echoing the sentiments of frustrated inventors, patent and trademark owners and their attorneys, has pledged to establish the Office as a first-class operation issuing patents and trademark registrations which are readily enforceable in the federal courts. Our Section stands completely behind such goals.

We ask that Congress reassert its role of ensuring promotion of progress of science and useful arts by giving the PTO the necessary funds and establishing fees by statute, generally along the lines set forth in Resolution 11B of the Appendix.

More importantly, Congress should again assume its role of watchdog of PTO functions by having the PTO appear before it every four years and explain what it has done, what goals have been attained, what goals are still to be reached, what plans there are to reach such goals and what the costs will be. Inventors and patent and trademark owners and their attorneys should also be heard. Based upon such information, Congress can make necessary adjustments in appropriations and fees.

Only by such a commitment by Congress will this country continue on its path of invention and innovation, with new products and processes being developed and introduced, more small businesses being started, more growth of small businesses into large businesses and industries, more people being employed, and more taxes being paid into the U.S. Treasury by such businesses based upon profits and royalties received and by such employees, based upon their income.

Congress should not let this opportunity slip away. If it does, then in 1990, if any plans are made to celebrate the 200th anniversary of the first Patent Act of 1790, one wonders what will be left of the system to celebrate. Will independent inventors and small businesses who have been priced out of the system even care what has happened to it?

APPENDIX

The following Resolutions have been approved by the members of the Section of Patent, Trademark and Copyright Law under the provisions of Article VI of the Section's By-laws and thus are established as Section positions.

Resolution 1.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law opposes in principle any requirement that the operations of the Patent and Trademark Office be funded substantially entirely by fees, because such a requirement erroneously implies that the general public does not benefit from the patent and trademark systems, while in fact the constitutional purpose of the patent system is to benefit the public by encouraging innovation and consequently expanding industries, creating new jobs and producing tax revenues for the Government, and the statutory purpose of the trademark system is to protect the public against fraud, deception or unfair competition; and further, because such a requirement would increase fees to such levels as to discourage the use of the patent and trademark systems, especially by individuals and small businesses."

Resolution 2.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law opposes in principle drastic reductions in the funding provided to the Patent and Trademark Office by the Congress such as proposed by H.R. 5602 which would reduce such funding nearly 43 percent immediately and over 90 percent in the near future; and
Specifically, the Section opposes Sections 1, 3(a), 3(b), and 3(d) of H.R. 5602 (Kastenmeier) 97th Congress and similar proposed legislation."

Resolution 3.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law opposes in principle any legislation requiring the recovery through fees of any stated percentage of the costs of operations of the Patent and Trademark Office, because such a provision requires difficult, expensive, and time-consuming cost accounting analysis that includes some factors which are incapable of exact determination in advance so that specific percentages cannot be achieved, and because provision for the recovery of a percentage of costs tends to promote inefficiency in operations."

Resolution 4.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law favors in principle a substantial increase in the fees presently payable to the Patent and Trademark Office in order to improve the quality of its operations, provided that such fees are established by Congress at such levels as to reflect the substantial benefit to the public of the patent and trademark systems, and provided further, that an additional amount corresponding to the income from fees is made available to the Patent and Trademark Office for use in the funding of its operations."

Resolution 5.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law opposes in principle legislation providing for the setting or variation by the Commissioner of Patents and Trademarks of fees relating to applications in the Patent and Trademark Office or relating to patents or registrations granted by that Office."

Resolution 6.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law favors in principle the establishment of maintenance fees for patents filed after December 12, 1980, payable on an increasingly ascending scale 3-1/2, 7-1/2 and 11-1/2 years after the issue of the patent."

Resolution 7.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law favors in principle legislation establishing a schedule of fees for the Patent and Trademark Office to remain in effect for a period not in excess of four years, so that Congress will be required to review the fees at least at four-year intervals."

Resolution 8.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law favors in principle legislation repealing 35 U.S.C. 41 and 15 U.S.C. 1113, as amended by Sections 2 and 5 of P.L. 96-517, relating to patent and trademark fees, respectively."

Resolution 9.

"RESOLVED, that Resolution 103-4A, adopted by the Section of Patent, Trademark and Copyright Law in 1980, is hereby rescinded.'

Resolution 10.

"RESOLVED, that Resolution 103-5, adopted by the Section of Patent, Trademark and Copyright Law in 1980, is hereby rescinded.

Resolution 11A.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law favors in principle the proposed Fiscal Year 1983 level of funding for the Patent and Trademark Office of approximately one-hundred-fifty-five-million dollars."

Resolution 11B.

"RESOLVED, that the Section of Patent, Trademark and Copyright Law favors in principle a yearly Congressional appropriation of at least ninety-million dollars to fund partially such PTO operations, and favors in principle the Congressional setting of PTO fees sufficient to fund the remaining cost of such PTO operations generally along the following lines:

PATENT PROCESSING FEES

Base Filing (includes up to 3 independent and 20 total claims)	$ 200
Independent Claims Over 3	30 each
Total Claims Over 20	10 each
Multiple Dependent Claim(s)	100
Base Issue	400
Petitions for Automatic Extensions of Time	
First	50
Second	100
Third	200
Revival Fees Under Sections 133 and 151	500
Design and Plant Patents	
Filing	125
Issue	175
Appeals	
Filing	115
Brief	115
Oral Hearing	100
Reissue	
Base Filing	200
For Each Independent Claim Above Number of Independent Claims in Original When Presented	30
For Each Claim in Excess of 20 and in Excess of Number in Original, When Presented	10
For Each Multiple Dependent Claim in Excess of Number of Such Claims in Original, When Presented	100
Base Issue	400
Maintenance Fee Level If Later Enacted by Congress	
3-1/2 years	300
7-1/2 years	750
11-1/2 years	1350

TRADEMARK PROCESSING FEES

Filing	$ 125
Renewal	200
Late Renewal	100
Section 8 Affidavit	75
Section 15 Affidavit	100
Section 8 and 15 Combined	175
Opposition	100
Cancellation	100
Appeal	100
Section 12(c) Claim	100
New Certificate	100
Certificate of Correction	100
Disclaimer to Registration	50
Amendment to Registration	100
Petitions to Commissioner	100
Concurrent Use	100

SERVICE FEES

Patent Copy	$ 1.00
Patent Copy Over 25 Pages and Color Plant Patent Copy	2.00
Trademark Copy	.40
Design Copy	.40
Record Assignment	20.00
For Each Item Assigned in Excess of One, Additional	3.00
Certified Trademark Copy	7.50

Statement of J. Jancin, Jr.

The American Patent Law Association (APLA) is a national society of more than 4600 lawyers engaged in the practice of patent, trademark, copyright and other fields of law relating to commercial and intellectual property rights. I appreciate this opportunity to offer the views of the APLA on the Administration's request for appropriations for the Patent and Trademark Office (PTO) in FY 1983.

Commissioner Mossinghoff described previously a "three point program" for the improvement of the operation of the PTO and requested $154,934,000 to carry it out in the next fiscal year. The first two goals of the program relate to production. Goal one is to reduce to eighteen months by FY 1987 the average time a patent application pends before issuance. Goal two is to reduce to thirteen months the average time an application to register a trademark pends before registration, with first action by the PTO occurring on average in three months.

The third objective of the program is to take "some initial steps to place automated search and retrieval systems in the hands of patent and trademark examiners this year", while striving towards "a fully automated Patent and Trademark Office in the 1990's".

The production goals set by Commissioner Mossinghoff are widely recognized as optimum efficiency levels for both the patent operation and the trademark operation. As such, they have our full support. These approximate levels were achieved by the PTO in 1977. However, a significant reduction in the number of patent examiners and a dramatic increase in the number of applications for trademark registrations have

CAUSED BACKLOGS TO SHARPLY INCREASE FROM FY 1978 TO THIS DATE.

THE APLA STRONGLY SUPPORTS THE THIRD POINT OF THE COMMISSIONER'S PROGRAM. THE FULL APPLICATION OF COMPUTERIZED DATA RETRIEVAL AND STORAGE TECHNOLOGY TO THE FILES AND PROCEDURES OF THE PTO IS ESSENTIAL. THE 96TH CONGRESS, IN P.L.96-517, DIRECTED THAT THIS EFFORT BE UNDERTAKEN. PURSUANT TO THAT LAW, A REPORT WILL BE SUBMITTED TO CONGRESS BY THE COMMISSIONER LATER THIS YEAR OUTLINING HOW THIS LONG TERM PROGRAM WILL BE ACCOMPLISHED. WE HOPE THAT THIS YEAR AND IN THE YEARS TO COME, THIS SUBCOMMITTEE WILL SUPPORT THE EFFORT.

WE WOULD LIKE TO TAKE THIS OPPORTUNITY TO RAISE A NOTE OF CAUTION TO THE SUBCOMMITTEE ON THE NEAR TERM OPERATION OF THE PTO REGARDING THE PATENT OPERATION. THE VIABILITY OF AN EFFECTIVE PATENT SYSTEM HEAVILY DEPENDS ON THE QUALITY OF THE PATENTS ISSUED. IF ISSUED PATENTS ARE NOT VALID AND RELIABLE, THEY CANNOT AND WILL NOT BE USED AS A FOUNDATION FOR THE DEVELOPMENT AND DELIVERY TO THE MARKETPLACE OF NEW PRODUCTS. IF ISSUED PATENTS ARE NOT RELIABLE, IT WILL NOT MATTER HOW QUICKLY THEY ARE PRODUCED.

THE COMMISSIONER HAS TOLD THE SUBCOMMITTEE THAT A SIGNIFICANT PORTION OF CONTENTS OF THE PATENT SEARCH FILE IS "MISSING OR MISFILED". UNTIL FULL COMPUTERIZATION IS ACHIEVED IN THE 1990'S, IT IS ESSENTIAL THAT THIS PROBLEM BE ADDRESSED. FURTHERMORE, AS THIS SUBCOMMITTEE KNOWS FROM TESTIMONY IN EARLIER YEARS, THE CLASSIFICATION OF THE SEARCH FILE IS SERIOUSLY OUT OF DATE. THIS DEFICIENCY ALSO CANNOT AWAIT CORRECTION UNTIL THE 1990'S. IN THIS INTERIM PERIOD, THE PATENT SYSTEM CANNOT BE LEFT TO LANGUISH. ALSO, IT WILL NOT BE ACCEPTABLE OR PRACTICAL TO COMPUTERIZE AN INCOMPLETE AND POORLY ORGANIZED BODY OF DATA AS THE ABILITY TO DO THAT BECOMES AVAILABLE.

We are confident that in the years immediately ahead, we can work with the Commissioner, and with this Subcommittee to enhance not only the production levels of the PTO but the quality of its work products until final solutions are developed. I think that we all can agree that a "first class" Patent and Trademark Office is needed and is clearly in the public interest.

Finally, as the members of this Subcommittee know, S.2211 is a Bill to authorize appropriations for the PTO and is currently pending before the Judiciary Committee. Part of that Bill relates to PTO fees. Currently, an inventor or his employer, pays an average of $235 to obtain a patent and the 17 years protection which attaches. In P.L.96-517, Congress authorized that on October 1, 1982, these patent processing fees are to be increased to approximately $400, and that "maintenance" fees totaling approximately $1400 are to be payable 3 1/2, 7 1/2 and 11 1/2 years into the life of the patent if it is to be kept in force. In the pending Bill, these levels of fees would be doubled over those in P.L.96-517. If this proposal is accepted in Congress, the cost in Government fees for patent protection will be increased from an average total of $235 to approximately $3600 per patent.

The APLA opposes this sharp new increase in fees. We believe that fees of this magnitude will act to discourage all inventors from using the patent system. In the case of independent inventors or those who are employed by small businesses, full use of the patent system may become too expensive to afford.

Another legislative initiative (S.2326) merits comment because it has been introduced to relieve small business, non-profits and individual inventors of the high fees in

S.2211 BY PERMITTING THESE CATEGORIES OF USERS TO PAY 50% OF THE FEES PRESCRIBED IN S.2211--FEES, BY THE WAY, WHICH ARE THE SAME AS THOSE ALREADY SET IN P.L.96-517.

WE LOOK FAVORABLY UPON S.2326 AS IT SOFTENS THE IMPACT ON SMALL BUSINESS, NON-PROFITS AND INDIVIDUAL INVENTORS. WE COMMEND THE APPROACH IN S.2326 TO SPECIFIC ABSOLUTE FEES (AS DISTINGUISHED FROM PERCENTAGES) SO AS TO PROVIDE CERTAINTY IN FEE AMOUNTS. WE OFFER A NOTE OF CAUTION IN SUGGESTING THE NEED FOR A THREE-YEAR FEE SUNSET PROVISION IN ORDER TO CALL FOR A CONGRESSIONAL REVIEW OF FEES.

REGRETFULLY, HOWEVER, THE APLA OPPOSES THIS TWO-TIER APPROACH FOR THE FOLLOWING KEY REASONS:

(1) WE CANNOT APPROVE A PRACTICE THAT FAVORS CERTAIN FOREIGN NATIONALS WITH LOWER FEES OVER U.S. COMPANIES.

(2) WE BELIEVE THAT FOR THE SMALL "SAVING", THE RISK OF OTHER COUNTRIES ADOPTING A TWO-TIER FEE SYSTEM HARMFUL TO THE UNITED STATES IS NOT WORTH CHANCING. THE INTELLECTUAL PROPERTY RELATED PROBLEMS DIRECTED TO UNFAVORABLE TREATMENT OF NATIONALS IN DEVELOPING COUNTRIES, NOW EVIDENT IN THE PARIS CONVENTION TREATY AS WELL AS LAW OF THE SEA TREATY NEGOTIATIONS, INDICATE THAT THESE ARE REAL, NOT ACADEMIC, MATTERS.

(3) WE SUPPORT EQUAL TREATMENT OF ALL APPLICANTS AND ALL NATIONALS.

THE PROPOSED FEE INCREASES IN S.2211 ARE CLEARLY A DISINCENTIVE WHERE INCENTIVES ARE IN ORDER. GRANTING PATENTS IS ONE OF THE MOST OBVIOUSLY BENEFICIAL ECONOMIC SERVICES PERFORMED BY THE FEDERAL GOVERNMENT ON BEHALF OF THE PUBLIC. USING THIS SERVICE SHOULD BE ENCOURAGED. TO MEANINGFULLY DISCOURAGE IT IS SIMPLY NOT IN THE PUBLIC INTEREST.

IF THE JUDICIARY COMMITTEE INCREASES THE REQUESTED AUTHORIZATION AMOUNT IN S.2211 TO MODIFY THE ADMINISTRATION'S FEE PROPOSAL, WE WOULD URGE THAT THIS SUBCOMMITTEE FULLY APPROPRIATE FUNDS TO THE NEW LEVEL. WE SUPPORT THE ADMINISTRATION'S PROGRAM EVEN THOUGH WE CANNOT SUPPORT THE PROPOSED METHOD IN S.2211 OR S.2326 OF GENERATING THE TOTAL FUNDS. SINCE THE USERS OF THE PATENT AND TRADEMARK OFFICE SHARE EQUALLY WITH THE PUBLIC BOTH THE BENEFITS OF AND RESPONSIBILITIES FOR THE OFFICE AND ITS RELATED PATENT & TRADEMARK SYSTEMS THAT ARE EXTREMELY IMPORTANT TO THE ECONOMIC WELL-BEING OF THIS COUNTRY, THEY SHOULD SHARE EQUALLY IN THE FEE AND COST PAYMENTS.

THANK YOU.

LEGAL SERVICES CORPORATION

STATEMENT OF HON. HUGH SCOTT, REPRESENTATIVE OF ADVOCATES TO SAVE LEGAL SERVICES, WASHINGTON, D.C.

Senator WEICKER. I am going to go off the schedule for just a minute. Senator Hugh Scott is here. We will have Senator Scott briefly testify on Legal Services again and then proceed on to the rest of the schedule.

Hello Hugh.

Mr. SCOTT. Good morning. Good morning. My apologies for being late.

Senator WEICKER. No apology is needed. You are on a worthwhile mission. You are a worthwhile person, and you just go ahead and proceed however you would like to.

Mr. SCOTT. I have filed copies of the testimony.

Senator WEICKER. We will put your statement in its entirety in the record.

Mr. SCOTT. I would like to leave an extra copy. I will not attempt to go through the entire statement. I think I ought to say, first, it is a peculiar place I have in being back here and being entrusted in your company. My admiration for you is high.

Senator WEICKER. Thank you.

Mr. SCOTT. I asked to be here today, not only in view of my own conviction, but after a question of our former colleague, Senator Pearson, who is chairman of the Advocates To Save Legal Services, and he is unable to be present here. As you know, he is always half here and half in Kansas so I am very glad to appear in both capacities.

I think that substantially what I have said is it is a little like the preacher teaching the choir, because I suspect the chairman himself must know, on record, what we are seeking to do is to prevent such drastic cuts in the program as would so diminish its effectiveness and thereby work it not only a hardship, but an actual wrong on those people who genuinely seek some relief, a safety net, I think, if you will, for the possible damage which may have been done in the course of the reduction of other programs.

Whether they have been denied due process or not; for example, they have no way of establishing that a medical program or some other program under the general welfare cause is operating not nearly to catch them as one of a vast number of people, but to deprive them individually of certain legal rights. Without such services of this, I see no way by which that protection can be extended. The funds provided are no more than to allow for inflation alone and are not at all adequate for the continuation of the program.

There is one interesting figure, if it has not been cited here, showing the percentage of cases decided on the legal aid docket for 1981. There seems to be a tendency to feel that this agency has been used for propaganda or promotional purposes or for forms of legal activism which may be unfavorably received in certain portals, which the real legal aid document shows that 30 percent of the cases involved family law, namely, divorce and child custody, that 18 percent involved income maintenance such as helping clients get welfare and social security benefits that they were illegally denied; 14 percent involved consumer finance, and only 15 percent of the legal aid's cases go to court, of which 80 to 85 percent are won.

Those who would criticize this are saying, in effect, that they resent the right of people to seek to have their rights adjudicated because the adjudication of their right may result in some inconvenience or some loss to the people who would deny them those rights.

There is no way pro bono work by private attorneys alone can carry this burden. The American Bar Association, of course, is clear on record in soliciting its members to increase their pro bono work. I don't want to make an admonishment here, except as I do when one says one doesn't, but more than 50 percent of my own work is pro bono, and it is a privilege and I enjoy it, but the average attorney does give a substantial percentage of his time, most of us, to pro bono.

Of course, there are some elements of greed such that they don't find space for it, but that is true in every profession. Both Houses have gone on record in support of continuing the Federal program. I sincerely hope that it will be continued, that it will be adequately funded, and in the words of Judge Learned Hand, "If we are to keep our democracy, there must be one command: Thou shalt not ration justice."

I probably will be the longest serving member of the bar to appear before this committee, because I virtually dare anybody to precede me in that regard since I have been a member of the bar of the Commonwealth of Virginia for 61 years and of the Commonwealth of Pennsylvania for 62 years, in the Commonwealth of Pennsylvania for 61 years and the District of Columbia for five, so that I think I have seen legal problems come and go.

The outstanding aspect of American society today is the capacity for doing wrong, for performing ill-conceived, deeds against those who are weaker and are, therefore, unable to protect themselves.

The dismissal of Government as all powerful has a highly virtuous ring, but unless there is all power, until some Government somewhere, and certainly, hopefully, the most trustworthy of the Government entities, then those people who come to the bar of justice will find that the lady is not only blind, she is paralyzed. I don't want to see that happen.

Senator WEICKER. Hugh, we need you back on the floor of the U.S. Senate. There is no question about that.

Mr. SCOTT. I have thought of some things I would like to say.

Senator WEICKER. These are tough times up there in the sense of the ideals which you articulate here. I am glad that you articulated them. Thank you.

Mr. SCOTT. Thank you, sir.

PREPARED STATEMENT

Senator WEICKER. Your statement will be placed in the record at this point.

[The statement follows:]

STATEMENT OF HON. HUGH SCOTT

Mr. Chairman, I am happy to join my two distinguished friends here this morning to urge this Subcommittee to support continued adequate funding for the Legal Services Corporation. I am here as a representative of Advocates to Save Legal Services, a bi-partisan organization of lawyers and other citizens that was formed last year to work for the survival of a strong and independent federal legal services program. I am glad to have the opportunity to speak to you today, not only for myself, but also for my fellow members of the Advocates.

Knowing your own personal commitment to the cause of equal justice for the poor, Mr. Chairman, I believe you and I would agree that in the best of times the $265 million requested by the Legal Services Corporation for fiscal 1983 could not be considered adequate funding to meet the needs for legal representation of this nation's 30 million poor people. That figure represents only an inflationary increase over the $241 million approved by the Congress in fiscal 1982. And the 1982 appropriation represented a 25% reduction below the 1981 appropriation of $321 million. So even with a 10% inflationary increase factored in, the Corporation's 1983 request is still well below its 1981 appropriation.

But these are clearly not the best of times. And even those of us who would like to see a higher funding level have had to accept the fact that legal services cannot be immune from budget cuts. Those cuts have already been absorbed by local legal services programs all across the country with resulting reductions in the number of staff attorneys and paralegals as well as in the number of clients served. We are simply asking that no additional cuts be made beyond the 25% reduction that already has been imposed on the Corporation.

Legal services is the only mechanism most poor people have for seeking redress of their legitimate grievances through the legal system. In this time of particular hardship, when many of the social programs that have in the past provided some measure of support for the poor have been painfully reduced or altogether eliminated, I believe it is more important than ever that we preserve this one vital avenue of redress for low-income Americans. If we do not do that, we will be doing not only the poor but ourselves and our system of justice a severe disservice. If not through the legal system, how else are poor people to right wrongs?

Equal justice under law is not a partisan issue. Nor should it be an issue that divides us along ideological lines. It is an issue that goes to the heart of the principles upon which this nation was founded. As you have said so many times, Mr. Chairman, we simply cannot have two systems of justice, one for the rich and another for the poor.

The legal services program has served millions of low-income people since its establishment by Congress more than 16 years ago. The program has been a vital, indispensible resource for its clients, providing more than just high-quality personal service, more than increased respect for our legal system. It has given hope to people who were hopeless, trust to people who were suspicious. It has shown poor people that they can solve their problems within the legal system.

Opening the door to justice is, very simply, what legal services lawyers do. They make no laws, they award no benefits. They simply provide access to the same processes of law and justice that are available to those who can afford to pay for legal representation.

Because of its accomplishments, the legal services program has earned the overwhelming support of the American people. Not just poor people who have been served by the program, but people from all walks of life who believe in the principle of equal justice. A poll conducted by CBS and The New York Times last spring, for example, found that 83% of the American people want funding for the Legal Services Corporation to continue at the same or higher levels.

As evidenced by the presence here this morning of the distinguished President of the American Bar Association, the legal services program is also strongly supported by the legal profession as a whole. While the private bar has been generous in taking up some of the slack resulting from last year's budget cuts, the leaders of the ABA and more than four hundred state and local bar associations across the country know better than anyone else that there is simply no way that pro bono work by private attorneys can replace either the special expertise in poverty law that legal services lawyers possess or the personal service provided by neighborhood legal services offices operating fulltime to serve poor clients. That is why those four hundred state and local bars have joined the ABA in supporting continued funding for the federal program.

It is interesting to note, Mr. Chairman, that since the establishment of the federally funded legal services program in 1974, pro bono work by private attorneys has actually increased. Cooperative arrangements between the private bar and legal services programs are flourishing in most states. The private bar is eager to fulfill its ethical obligations to serve the poor but recognizes that the job is far too large and complex to be handled entirely by lawyers in private practice.

The judiciary is also strongly supportive of the continuation of funding for the Legal Services Corporation. Hundreds of judges at the federal, state and local levels all across the country have gone on record in support of the program, as have the deans of almost every law school in America.

State and local officials -- governors, attorneys general, state legislators, city and county officials by the thousands -- have recorded their support as well. Even though many of these officials, including the distinguished Attorney General of the State of Maryland who is here this morning, often find themselves on the opposite side of lawsuits brought by legal services attorneys on behalf of poor clients, they have said clearly that they believe the poor are entitled to the same high-quality legal representation as are those who can afford to pay for lawyers.

Both houses of the Congress have also gone on record in support of continuing the federal program. This Subcommittee, the full Appropriations Committee and the Senate itself overwhelmingly rejected all attempts last year to reduce funding below the $241 million level. The House passed an appropriations bill at the same level by a vote of 247-135. I hope and fully expect that your support will continue this year.

In fact, Mr. Chairman, I realize that urging this Subcommittee to recommend continuation of funding with a modest inflationary increase is rather like preaching to the choir. I know where you stand. But I think it is important, in a time of increasing pressure to find additional budget savings, that we continually remind ourselves of the importance of this program to the lives of millions of poor and elderly Americans and that the Congress resist any effort to further reduce the relatively modest appropriation required to keep the legal services program operating.

As a member of the Senate, I was proud to participate in the establishment of the Legal Services Corporation in 1974. Since my retirement, as a lawyer engaged in private practice, I have not wavered from my conviction that this nation has an obligation to provide all its citizens with equal access to justice. That is why I became a member of Advocates to Save Legal Services, and that is why I am here today.

I urge you to remain steadfast in your devotion to equal justice and to respond favorably to the request of the Legal Services Corporation for $265 million for fiscal 1983.

In the words of Judge Learned Hand: "If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice."

TRAVEL AND TOURISM

STATEMENTS OF:

RICHARD T. ASHMAN, VICE PRESIDENT FOR GOVERNMENT AND INDUSTRY, HOLIDAY INNS, INC.

JAMES E. GAFFIGAN, EXECUTIVE DIRECTOR, TRAVEL AND TOURISM, GOVERNMENT AFFAIRS POLICY COUNCIL

Senator WEICKER. The next panel is Mr. Richard T. Ashman, vice president for government and industry, Holiday Inns, Inc., and Mr. James E. Gaffigan, executive director, travel and tourism, Government Affairs Policy Council. Go right ahead.

Mr. ASHMAN. Mr. Chairman, I am Richard T. Ashman, corporate vice president for government and industry relations of Holiday Inns, Inc. I am here in my capacity as chairman of the Travel and Tourism Affairs Policy Council. With me on my left is James Gaffigan of the council and executive director.

We have submitted a statement. We would like to take just a few moments of your time this morning to comment.

Senator WEICKER. Go right ahead.

Mr. ASHMAN. The council represents every major segment of the travel and tourism industry including 29 of the largest travel and tourism organizations. We do appreciate the opportunity to discuss with you the need and urgency of appropriating an adequate level of funding for the new U.S. Travel and Tourism Administration within the Department of Commerce.

In October 1981, the Congress established the USTTA and charged it with the responsibility of optimizing the contribution of tourism and recreation industries to economic prosperity, full employment, and the international balance of payments to the United States.

Indeed, the travel and tourism industry can and does contribute substantially to the economic well being of our Nation. Specifically, the industry creates jobs. Five percent of all employment in the United States is represented by the travel and tourism industry. We are a highly labor intensive industry. With 5 percent of total employment, this industry created 22 percent of all new jobs last year.

The previous year, it created 35 percent of all new jobs. The industry provides entry-level jobs for a high proportion of women, minorities, and particularly the unskilled. In fact, one-third of all young people in the United States worked in traveling, touring, and related jobs. The administration has announced plans to spend some $1.8 billion during the next 2 years principally for training the unskilled.

I would submit that money spent to market the United States as a travel destination would provide a much higher return on investment as far as unemployment is concerned because it would provide jobs and not merely train people for a prospective job.

The industry also contributes substantially to tax revenues at the Federal, State, and local levels. Last year, this industry generated some $15.6 billion in taxes, $9 billion at the Federal level. The industry also has a very positive effect on our Nation's balance of payments.

Secretary Baldrige has stated repeatedly that his Department's major priority is to improve the Nation's exporting capability. The travel and tourism industry translated into importing travelers. Using the Commerce Department's statistics of a 3 to 3½ multiplier on dollars spent by travelers, one job for every $35,000 spent, international travelers to this country last year sustained some 1 million jobs. For every 53 additional people that visit our country, a new job is created.

With these few facts in mind, it is not surprising that the Congress mandated the USTTA to focus on the contribution that the industry can make to the economic well being of our Nation. Yet, from our viewpoint, USTTA cannot fulfill your mandate at the level of funding, the $5 million that is currently requested by the administration.

This new organization, under the very capable leadership of Under Secretary Peter McCoy, with the $5 million, will barely be able to pay salaries and rent let alone develop a strategy for a program to promote travel to the United States to boost our Nation's economy.

Therefore, the Travel and Tourism Government Affairs Policy Council recommends a $10.5 million appropriation to permit the fledgling USTTA to succeed in its first year. This modest investment will reduce unemployment, increase tax revenues and improve the Nation's balance of payments.

Mr. Gaffigan would now like to make a few further comments on that subject.

STATEMENT OF JIM GAFFIGAN

Mr. GAFFIGAN. Mr. Chairman, my name is Jim Gaffigan. I am executive director of the council. We very much appreciate this opportunity you have afforded us. I would just like to make a few points, the first being that international travel, in terms of the business, is over $100 billion. If you look at page 7 of our statement, you will see that it is a business that is highly competitive, nation against nation. We feel that there is a distinct role for the Federal Government to be involved in something like the U.S. Travel and Tourism Administration.

Dick Ashman has pointed out the export picture.

I would just like to say that the work that has been done by Senator Inouye, who created the U.S. Travel and Tourism Administration, now Senator Larry Pressler, people like Senator Cannon, all of those individuals and so many Members of Congress, I think, recognize how pervasive this industry is and how important it is to jobs, to the export picture. We really believe that the funding level that we are recommending is a funding level that would just basically keep this administration working in the best interests of the American public.

That is why we are here. We are glad that you have given us this opportunity. Thank you, sir.

PREPARED STATEMENT

Senator WEICKER. I see the point you are making from a sense of the value to this country. I assure you, we will take a hard look at your formal statement before moving on this aspect of the budget.

Thank you very much.

Mr. ASHMAN. Thank you, Mr. Chairman.

Mr. GAFFIGAN. Thank you.

[The statement follows:]

STATEMENT OF RICHARD T. ASHMAN

I am Richard T. Ashman, Corporate Vice President for Government and Industry Relations, of Holiday Inns, Inc. I am here today in my capacity as Chariman of the Travel and Tourism Government Affairs Policy Council. With me is James E. Gaffigan, Executive Director of the Policy Council.

The Policy Council was formed on March 17 of this year and is the official organization representing the travel and tourism industry on government issues. The Council represents every major segment of the industry, including airlines, hotels, restaurants, buses and attractions. It includes 29 of the largest travel and tourism national trade organizations. (We have attached a roster of members in Addendum I.) The Council offices are located at 1899 L Street, N.W., Suite 607, (202-293-5407), and our Executive Director is James E. Gaffigan.

By presenting its views in one, unified voice, the tourism industry, through the Council, will be better able to facilitate the objectives of the United States Travel and Tourism Administration (USTTA). The Council is committed to working in partnership with the Congress and the Administration as issues affecting the industry are discussed.

On behalf of the Council, we are grateful for the opportunity to discuss with you the need and urgency of appropriating an adequate level of funds for the USTTA.

I will initiate our presentation with a brief overview of the National Tourism Policy Act of 1981, the important role of travel and tourism in our economy, and the need for adequate basic funding of the USTTA.

In October, 1981, the Congress enacted the National Tourism Policy Act. The Act established the United States Travel and Tourism Administration. USTTA is charged with responsibility for optimizing "the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments to the United States."

Realizing that you already have volumes of statistics on record regarding the economic contribution of the travel and tourism industry to the private economy and the budgets of the federal, state, and local governments, I will address only highlights emphasizing the benefit of travel and tourism to the economic well-being of our Nation.

1) Specifically, the travel and tourism industry creates jobs.

In 1980, the industry directly provided employment for 4.5 million people (nearly 5 percent of total employment). Twenty-two percent of the new jobs in the United States last year were created within the travel and tourism industry. In 1980, the industry created 35% of all the new jobs.

The industry is highly service-oriented. Therefore, it is very labor intensive, providing entry-level jobs for a substantially higher proportion of minorities, women and unskilled workers than the overall average.

In fact, the industry employs 7 percent more minorities and 27 percent more women than the national average. One third of all young people in the work force have travel and tourism-related jobs.

Our nation has long recognized that providing job opportunities for its citizens is its top economic priority. To that end, the Administration is currently proposing to spend $1.8 billion over the next two years principally training the unskilled segment of the unemployed. That addresses only half of the problem. I would submit that money spent to market the U.S. as a tourism destination is the most cost-effective vehicle of solving the problem because it results in the creation of a job not merely the training of one for a job. For approximately every $28,000 spent in the travel and tourism industry, one additional job is created. Therefore, the Federal government would do well to capitalize on this virtually untapped resource of job opportunities resulting from increasing foreign travel to the U. S.

2) The industry also generates tax revenue at the federal, state and local levels.

Last year, $15.6 billion in tax revenue was directly attributable to the travel and tourism sector. U. S. travel and tourism receipts totalled $160.8 billion.

3) Finally, the industry has a positive effect on our Nation's balance of payments. Each foreign visitor to this country spends approximately $650.00

Secretary of Commerce Baldridge has continually stated that his department's major priority is "to improve our (nation's) exporting capabilities." Exporting goods and technology is only one alternative to improving our international balance of payments position. Promoting the United States as a traveler's destination will also increase America's competitiveness in the world economy. In 1981, for instance, tourism contributed more than $12 billion to U. S. export receipts.

With these facts in mind, it is not surprising that Congress enacted the National Tourism Policy Act, mandating USTTA to focus on the contribution that the industry can make to the economic well-being of our Nation, particularly with regard to creating employment opportunities, generating tax revenues and positively affecting our Nation's trade deficit.

This mandate may be critical to the future economy of our Nation. Yet, USTTA cannot fulfill the mandate at the level of funding ($5 million) requested by the Administration for fiscal year 1983. The new organization - under the very capable leadership of Under Secretary Peter McCoy - will barely be able to pay salaries and rent in 1983, let alone develop a strategy to optimize the utilization of the travel and tourism industry to boost the Nation's sluggish economy.

USTTA will also be precluded from challenging government proposals which could have detrimental effects on the travel and tourism industry. Ill-conceived measures, injurious to the industry (the $5.00 per barrel oil import fee, for example) may be introduced and enacted without adequate analysis from the USTTA.

The Travel and Tourism Government Affairs Policy Council recommends a $10.5 million appropriation for the USTTA. With a $10.5 million appropriation, the fledgling USTTA could succeed in fulfilling its Congressional mandate. I seriously doubt that there is a more cost-effective investment of federal tax dollars than funds spent in facilitating travel to and promoting the United States as a destination for foreign travelers. This investment would reduce unemployment, increase tax revenue and improve the Nation's balance of payments position.

Without this level of appropriation, none of the Congressional expectations can be achieved.

It is indeed a pleaure to appear before you today Mr. Chairman, in support of an adequate funding level for the United States Travel and Tourism Administration.

My name is James E. Gaffigan, Executive Director of the Policy Council. I will address the funding history of the USTTA and its predecessor, the United States Travel Service (USTS), the resources other countries are devoting to the attraction of foreign tourism, and role of the states and the private sector in the promotion of international travel to the United States.

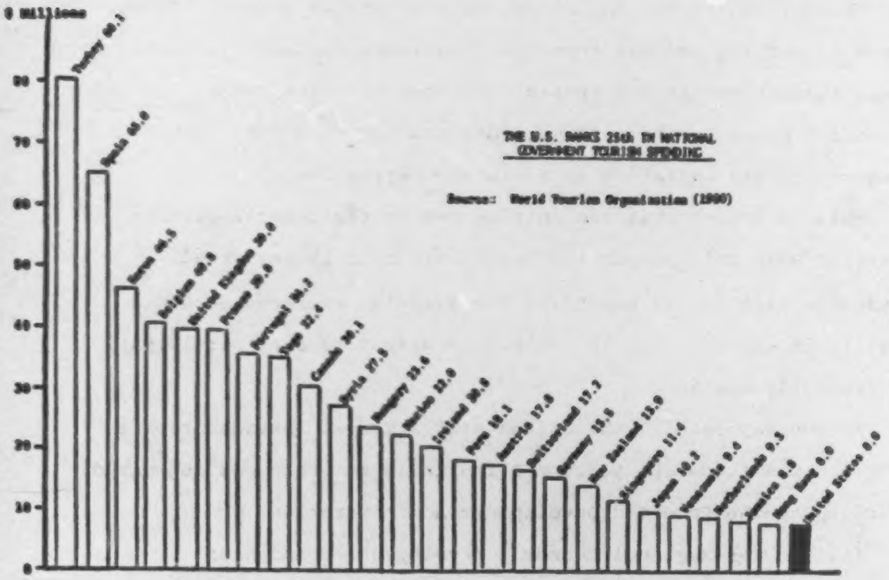
World Governments today are engaged in country to country combat for foreign exchange earnings from international tourism, and we are losing.

U.S. international tourism receipts measured in terms of constant dollars grew by only 4.9% in 1981; down from a high of 14.7% in 1976. Even more alarming is the fact that the U.S. share of world tourism receipts has actually declined --from 13% in 1976 to 10.9% in 1981.

Despite consistently reexpressed Congressional intent to the contrary, many insist that this is not the fault of the federal government and the private sector is perfectly capable of reversing the increasingly negative trend. Such assertions reflect a profound lack of understanding of the travel industry and its efforts to promote inbound travel to the United States from abroad.

Ninety-nine percent of the travel industry is comprised of small business, as defined by the Small Business Administration. The remaining 1% is heavily represented by large airlines, companies which for more than a year have been showing the worst losses in aviation history. In any case, we cannot rationally expect 1% of the tourism industry to promote the United States as a destination throughout the world. The fact is, nearly all travel businesses prudently market their products and services to foreign visitors who for the most part have already made a decision to come to the States. We must stop depending on the 1% of the industry that might possess the financial resources to advertise overseas and start thinking about the 99% who cannot afford promotion on this scale.

The travel industry is remarkably similar in most other nations around the world but the approach other governments take to marketing is radically different. It is based upon an understanding of the ratio of private vs. public funds necessary to implement an effective and productive international marketing plan. In almost every case, private sources spend a tiny fraction of what governments spend to attract foreign tourists. In fact, the United States ranks 25th in national government tourism spending.


THE U.S. RANKS 25th IN NATIONAL GOVERNMENT TOURISM SPENDING

Source: World Tourism Organization (1990)

A recent study revealed that each of the six USTTA foreign offices handle an average of 17,000 inquiries per month. Clearly these offices are being used for their intended purpose despite the fact that access to them has been necessarily limited due to previous budgetary cutbacks.

The six USTTA foreign offices hardly constitute an excessive, or even concerted effort. The United Kingdom, for example, maintains 22 tourism promotion offices in 21 countries around the world, Mexico has 29 offices in 14 countries and New Zealand has offices in 6 countries, as does the United States. The American travel industry has more "vacation products" to offer the tourist than the rest of the world combined, yet our government's commitment to tourism is no greater than New Zealand's and in terms of actual funding, it is less.

Ironically, this marketing concept is recognized and successfully implemented on the state level. It works in the states for precisely the same reasons it works for foreign governments. State level tourism promotion attracts (largely,domestic) tourists, while individual businesses compete for each traveler's patronage.

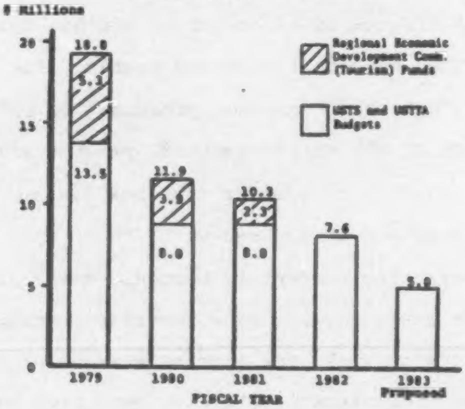
We must understand and recognize that states compete against states, countries against countries, airlines against airlines, hotels against hotels and attractions against attractions. Successful promotion of international tourism to any country depends upon its marketing as a travel destination.

This is a need that can only be met by the federal government; and when this proper and legitimate role is neglected, a resource with proven potential for yielding enormous economic benefit, is wasted. Yet in the past 5 years, federal participation has radically declined.

As you may recall, the United States Travel Service preceded USTTA and was funded at $13.5 million in 1979. This was augmented, according to the Economic Development Administration, by $5.3 million for Regional Economic Development Commission domestic and international tourism programs. The latter programs have since been completely eliminated from the Department of Commerce budget and USTTA FY 1983 funding proposed by the Administration is an inadequate $5 million. This is a 73% reduction for Commerce Department tourism programs when comparing FY 1979 with FY 1983.

U.S. GOVERNMENT FUNDING FOR TOURISM PROGRAMS HAS DECLINED BY 73% IN 5 YEARS

Source: U.S. Department of Commerce



The original authorization for the United States Travel and Tourism Administration, established by the National Tourism Policy Act, was $8.6 million. This was recognized by Congress at the time to be the absolute minimum necessary to even begin to fulfill the mandate of the National Tourism Policy Act and, expressed in 1983 dollars, would approach $10 million. In short, to fund USTTA at a $5 million level goes contrary to Congressional intent.

We understand and appreciate your efforts to achieve budgetary restraint. Nonetheless, we strongly believe that an examination of the evidence will yield the conclusion that at least a fair trial for the infant USTTA is imperative and economically justified.

Imperative because USTTA, if it is funded at a meaningful level, would perform a function that cannot be performed by the private sector no matter what the sum expended.

Thank you Mr. Chairman. If I can answer any questions for you or the members of the subcommittee, I will of course be delighted to do so.

Addendum I

NATIONAL TRAVEL INDUSTRY ORGANIZATIONS

Air Transport Association
American Automobile Association
American Bus Association
American Car Rental Association
American Hotel and Motel Association
American Recreation Coalition
American Sightseeing International
American Ski Federation
American Society of Travel Agents
Association of Retail Travel Agents
Conf. of National Park Concessionaires
Gray Line Sight-Seeing Association
Highway Users Federation
Hotel Sales Management Association International
International Association of Amusement Parks & Attractions
International Association of Convention & Visitors Bureaus
National Air Carrier Association
National Campground Owners Association
National Caves Association
National Council of Area and Regional Travel Organizations
National Council of State Travel Directors
National Council of Travel Attractions
National Restaurant Association

National Ski Areas Association
National Tour Broker Association
Recreation Vehicle Industry Association
Travel Industry Association
United States Travel Data Center
United States Tour Operators Association

INDIVIDUAL MEMBERS

Richard Ashman, V.P., Government Affairs, Holiday Inns, Inc.
Charles Gillett, President, New York Convention & Visitors Bureau
Robert Juliano, Legislative Consultant, Hotel Employees and Restaurant Employees International Union

DEPARTMENT OF COMMERCE AND SMALL BUSINESS ADMINISTRATION

STATEMENTS OF:

ED BODENHAMER, EXECUTIVE DIRECTOR, SOUTHEAST GEORGIA AREA PLANNING AND DEVELOPMENT COMMISSION

DANIEL FENNELL, DIRECTOR, MID-ATLANTIC TRADE ADJUSTMENT ASSISTANCE CENTER

EBEN M. GRAVES, JR., CHAIRMAN, E. M. GRAVES AND COMPANY, INC.

Senator WEICKER. The next panel, relating to the Department of Commerce and Small Business Administration, consists of Ed Bodenhamer, executive director of the Southeast Georgia Area Planning and Development Commission; Mr. Daniel Fennell, director of the Mid-Atlantic Trade Adjustment Assistance Center. I don't see Eben Graves here. Is Mr. Graves here?

[CLERK'S NOTE.—Mr. Eben M. Graves was unable to present his oral remarks, but requested his formal statement be inserted into the record.]

Senator WEICKER. I guess that is it.

Your statements in their entirety will be placed in the record. Why don't you go right ahead and summarize?

Mr. BODENHAMER. Thank you, Mr. Chairman.

I am Ed Bodenhamer, executive director of the Southeast Georgia Area Planning and Development Commission in Waycross, Ga. I am here representing the National Association of Development Associations or NADO, of which I am currently president.

Mr. Chairman, NADO represents multidevelopment and planning organizations and other State and local agencies throughout the country which help local governments and the private sector to work together to create jobs. I am pleased to have the opportunity to appear before you today to thank you for your support. I know the role you have had in our program and the appropriations for our program. We deeply appreciate it, Mr. Chairman.

Also, NADO sends its thanks for your continuing efforts to direct the Area Planning and Development Administration to provide the 1982 development grants for space. Our main concern today is fiscal 1983, but I would like to alert you that Assistant Secretary Campbell in a letter to you some time ago assured you that 26 percent of the planning grants would be released in March, and the balance, the other 74 percent, would be released in April. At this time, very few grants have been released, even though we are into 6 months of the fiscal year, and those first grants would cover the first 6 months.

Most of the economic development associations in this country have been operating without a planning grant. We are very concerned about that. In addition, there has been no action taken at EDA to implement the planning grants for the balance of the fiscal year as it was authorized in the continuing resolution.

The authorizing legislation for EDA expires with this fiscal year. Our members are committed to working with the House and Senate to see that an improved Federal economic development program is enacted. We support the passage of H.R. 6100, which is entitled the National Development Investment Act, and we hope that the Congress will appropriate the $500 million which is authorized in that bill for an agency within the Commerce to provide economic development assistance to State and local governments.

We need this modest amount to help communities attract and retain private sector jobs. The economy today makes it even more urgent that we get that type of assistance.

Finally, Mr. Chairman, I would like to discuss the important role the economic development districts have in strengthening the economies of the most distressed regions of our Nation. By working cooperatively through our economic development districts, local governments, and the private sector can maintain and create jobs with a minimum of control from Washington and maximum local participation from local government officials and the private sector.

The district approach of job creation has developed a partnership between local governments and the private sector, which is exactly what the present administration is supporting. If I may give a personal example, in my district, in southeast Georgia, the city of Douglas, Ga., a small town of 10,000 people, received a grant of $547,000 from EDA to cover part of the cost of developing an industrial park of 600 acres. The city and county spent approximately $1½ million of their funds to complete this project. The local industrial corporations spent more than $1 million to build a 100,000-square-foot building. Since that time, three plants representing multinational corporations have been located in that park.

TRW built one plant, was pleased with the type of reception they received in the community, and they are completing a second plant close to their first plant. The National Textile Corp. has also located there, as have many other companies.

At present, there are more than 1,200 jobs in that park. There is more than $20 million of private investment represented. To show you how the funding from the Federal Government plays such an important role, Mr. Chairman, the southeast Georgia development district was selected to receive one of five grants from EDA to build a fuel ethanol plant as a demonstration project for the feasibility of producing fuel ethanol as a motor fuel in the use of surplus farm commodities.

The EDA grant that was provided was seed money. A private corporation has placed $1.8 million into that, and the Department of

Housing and Urban Development gave the city a $400,000 grant which was, in turn, a loan to the corporation. The corporation will pay that grant back over 15 years at 12 percent interest, approximately $65,000 a year for 15 years.

This money that the city will be receiving has been placed in the local airport authority as security for a loan which the authority took in order to extend the runway of the local airport so that TRW guests could fly in and out. That was the key to clinching the TRW deal.

You see, with a Federal expenditure of about $1 million overall, 1,200 jobs and over $20 million in private investment have been realized. None of that would have happened without the seed money from the Federal Government.

We feel that it is very, very important, Mr. Chairman, that the Federal Government's presence in economic development be continued, not in the dominant role, but in providing the seed money and the money that local governments needs for infrastructure so that they can, in fact, work with private industry to build jobs out there in the areas of the country, which is all of the areas we need them in.

I understand that the companion bill will be introduced in the Senate. We would hope that you and this committee will support it and the funds will be provided for infrastructure development to local communities and provide capital to small businesses.

Mr. Chairman, I might mention that since we are the only public interest group testifying today, I would like to let you know that all the public interest groups concerned with this have gone on record supporting the continuation of economic development funding through the vehicle of H.R. 169 or some similar legislation: The National Association of Counties, the National League of Cities; the U.S. Conference of Mayors; the National Association of Towns and Townships, and the National Association of Regional Councils joins us in supporting this legislation.

We hope you and your subcommittee will continue to recommending funding for these important economic development activities. Mr. Chairman, thank you very much.

Senator WEICKER. Thank you very much.

Mr. Fennell?

STATEMENT OF DANIEL FENNELL

Mr. FENNELL. Mr. Chairman, thank you for having me here this morning.

My name is Daniel Fennell. I am director of Mid-Atlantic Trade Adjustment Assistance Center. I would like to thank you on behalf of the other centers and firms like American Buckle and firms in Connecticut that have benefited from this program for the very fine and strong letter that you personally sent to Chairman Sam Gibbons of the Subcommittee on Trade, House Ways and Means Committee.

One of the matters is being heard there. The Ways and Means Committee did recommend to the Budget Committee that the program be continued.

I am appearing because the administration has recommended that it be eliminated for fiscal year 1983. I am one of 11 trade adjustment assistance centers throughout the country, located throughout the country, providing in-depth consultant services to firms that have been injured by imports. We are private independent organizations, although we have a cooperative agreement with the Department of Commerce and the National Trade Association to do this kind of work.

I would like to make it clear, Mr. Chairman, that I am not here to testify against the administration, but for the program. My purpose is to enlarge the perception of what it has been doing, the kind of accomplishments that it has had and the kind of benefits that it represents as well as to ask your support in seeing that it is continued.

I understand that the administration has proposed to eliminate trade adjustment assistance for industries because the loan portfolio has been weak and because it has been said that an average of 65 firms a year benefited from loans and loan guarantees. I would respectfully submit, Mr. Chairman, that that is a very limited way of looking at the program. To recognize it as principally a loan program or a lending program does an injustice to a large variety of other things that are accomplished.

Those 65 firms a year fall in relation to the 1,255 firms that were, in fact, assisted in the third year of operation. Those 1,255 firms, by and large, received technical assistance; technical assistance in marketing; strategic studies; production examinations; technical viability studies that assisted them in positioning themselves not to come to the Government for loans, but to reestablish themselves in their own commercial vending markets; to look to their own communities for support in a business environment that is absolutely necessary for them.

About 100 of the loans, by the way, in that portfolio, predated the adjustment centers. That is, about a third of all the loans in that portfolio. The number of loans has actually decreased since 1979.

In fiscal 1980, the number of loans granted was 46 percent less than it had been in 1979. Moreover, the Congress had slackened the loan provisions of the act last year. The program was also transferred by the President, as you know, Mr. Chairman, to the International Trade Administration, and it has been operating there for 1 year. There was no ideological problem with operating there. There hasn't been any account, Mr. Chairman, of this final level of technical assistance for the fine kinds of results that have been achieved with it; the kind of technical assistance I am talking about that reaches out to firms where you have a firm that is coming in that is just about to close the doors and comes to you and say, "I am laying off 100 workers next week." You can go in and look at their cash flow, their production, and the orders on their order book, and you can turn them around. We had a firm like that. Not only were the 150 jobs saved, but employment expanded, margins increased from 2 to 10 percent, and it looks like it is going to exceed that in the future.

Another firm working with the trade center increased sales three times while the matter was being examined. There was no loan there, Mr. Chairman. The firm improved exclusively due to the work we were doing at the time. There hasn't been any account of that. Not only has the trade assistance centers worked with the firms, but the Department, through this program, has worked with a variety of industry programs to examine critical characteristic problems in that area and identified remedies that firms might be able to identify.

I am submitting for the record today, Mr. Chairman, the statement by Ed Levy, the executive director of the National Handbag Association. I will be submitting a statement by the president of the American Loudspeaker Association. There will be other statements with respect to firms that have had these kinds of benefits.

There are 20 key industries representing 26,000 firms, 2½ million workers, $158.5 billion in shipments and $77 billion in added value that have had benefits from critical examinations of what those industry problems were, what kind of competition they were facing from overseas, and what kind of adjustments they could undertake. We think those are practical remedies, Mr. Chairman.

We request that you examine the record and, on the basis of that record, see that this matter is continued.

I have included in my statement about 37 other case studies that will give an illustration of the characteristic effort that was made and the kind of results that were achieved. In addition to that, there are names in the neighborhood of 350 firms who called us in only the last several weeks to say, "We understand what the prospects are for the program. We are concerned about it. It is a benefit and it should be continued."

I have included those names for your consideration.

Mr. Chairman, the trade adjustment and assistance for firms which you have enabled in the past and is unique in this country, and perhaps among other nations too, because it stimulates positive adjustment imports, and it can be one of the most important programs that has ever been legislated. We support the President's desire to have America producing, competing, fueling its own investments, and creativity. We are supporting and are committed to a strong industrial base in our country. We are concerned that this base is weakening and in many cases, dangerously eroding. We are concerned with positive adjustment strategies. We know improvement is boldly sought as this program boldly seeks improvements.

Many firms that are not now competitive can become so. Some of these can learn to deal better with foreign importers and on their own rights. On the basis of this program, we think it should continue. It will go out of business if the administration proceeds. Chapter 2 of the Trade Act of 1974 which enables this program is authorized to be enforced until September 30, 1983, and it is on that basis that the Ways and Means Committee has recommended, in fact, the program be continued.

We don't think this is a subsidy program. We don't think it is something that is a giveaway program. We think it is a cost-effective program, and I would merely like to draw your attention in closing to the fact that in the third year of operations that in the 1,255 firms we are speaking about, there are approximately 120,000 workers, an average of about 96 to 100 in each firm.

For these workers, the average cost per person of a budget that was cut by 44 percent, by the technical assistance portion, an average cost to workers was $150 a head. That is less than 1 week of unemployment compensation. If we include the whole budget of $50 million, the cost was $416. We don't think there is a jobs program in this country that costs that little.

This is a business response to business programs and a working response to worker programs. We believe there can't be any better buy than what we are recommending here. The workers are assisted in other programs typically after they have lost their jobs. This is a job program that assists workers before they have lost their jobs.

On the other hand, the Government should be looking at what they get in return. Setting aside the readjustments which people are trying to accomplish within their community, and the contributions they are trying to make with their regional economies, the employees alone make a significant contribution to the Federal taxpayers. Conservatively estimating an average annual wage of $10,000 these workers account for $204 million a year in Federal taxes and unemployment insurance.

In 1 year alone this means that there is represented by that contribution more than seven times the total fiscal year 1982 budget for the program, more than four times the face amount of all the loans made by the program in calendar 1981, more than 62 percent of all the loans made since 1975 in this program and, if you wish to be more conservative still, as it is faced sometimes to in these days, in this account, that estimate in half still exceeds the total of the 1981 loans awarded and the total of the 1982 budget by 32 percent.

Those estimates don't include corporate taxes, other revenue that is related to employment nor do they include the compounding of these figures in successive yearly iterations.

In summary, Mr. Chairman, we believe that the firms and workers involved, the results that have been initiated, the work still to be done, this is not an expensive proposition.

PREPARED STATEMENTS

Senator WEICKER. Thank you very much. Thank you. I appreciate the testimony of both of you. We will place your statements in the record.

[The statements follow:]

STATEMENT OF ED BODENHAMER

INTRODUCTION

Mr. Chairman, members of the Appropriations Subcommittee on State, Justice, Commerce, I am Ed Bodenhamer, executive director of the Southeast Georgia Area Planning and Development Commission of Waycross, Georgia. I am testifying today on behalf of the National Association of Development Organizations.

NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS

The National Association of Development Organizations was founded in 1967 by a group of economic development districts to promote development in smaller cities, counties and rural areas. Today our members are multi-county planning and development organizations and other state and local agencies which help local governments and the private sector to work together to create jobs.

1982 EDA FUNDS

I am pleased to have the opportunity to appear before this Subcommittee so I can personally thank each of you for your support of economic development programs which are so important to my region and others throughout the country. I especially want to thank you for your continuing efforts to direct the Economic Development Administration to provide funding to economic development districts. In thousands of communities district staffs provide the only professional assistance to governments, businesses and citizens in the field of economic development. In this time of economic recession, districts are needed more than ever.

While our main concern today is with fiscal 1983, I want to alert you to the fact that not one development district grant was released by EDA on time. Responding to a letter sent by members of this subcommittee, Carlos Campbell, Commerce undersecretary for economic development promised 26 percent of all planning grants would be distributed by March 30. The remaining 74 percent would be allocated by the end of April. While we understand EDA is preparing to send notifications to all district grantees, as of today not one development district has received its fiscal year 1982 planning grant.

We hope this Subcommittee will continue to direct the Administration to release the funds provided in the last Continuing Resolution passed in March. These funds are due to be distributed to districts at the end of June. With your assistance, these funds will be disbursed expeditously.

ECONOMIC DEVELOPMENT FUNDING IN 1983

As President of NADO, I am pleased to submit some brief comments in support of funding for an economic development program in fiscal 1983. We know that the authorizing legislation for the Economic Development Administration (EDA) expires at the end of this year but our members are committed to working with Congress to see that an improved federal economic development program is enacted. NADO is supporting passage of HR 6100, "The National Development Investment Act" which has strong bi-partisan support in the House Public Works Committee. We ask that the Congress appropriate $500 million authorized by HR 6100 for an agency within the Department of Commerce to provide economic development assistance to state and local government. This legislation provides a new approach to federal assistance for economic development which conforms with the Reagan administration's desire to encourage greater public-private cooperation.

The House Public Works Committee has requested $500 million for fiscal 1983 for economic development in its submission to the House Budget Committee. We need this modest investment to help communities attract and retain private jobs.

RURAL DEVELOPMENT PROGRAM REDUCTIONS

For the second consecutive year, the administration has proposed a package of funding cuts which adversely affects rural development. We are troubled over cuts in development programs which assist economically distressed non-metropolitan areas. As proposed the Reagan plan would:

- Eliminate the Economic Development Administration.
- Abolish the Appalachian Regional Commission.
- Cut the FmHA Water and Waste Loan Program by 20 percent.
- Decrease the FmHA Water and Waste Disposal Grant Program by $5 million.
- Eliminate the FmHA Business and Industry Loan Program at the end of FY '83.

NADO members believe the current recommendations for decreasing federal spending favor large metropolitan areas. If these proposals are passed by Congress, rural communities could no longer rely on the federal government for economic and rural development assistance. These programs are closely linked with private sector investment. Termination and reductions in funding would effectively decrease the rate of growth in some rural areas and continue the population loss in others.

Federal programs to stimulate development in rural areas have been significantly cut in the past four years. FmHA programs have been cut from 45 to 100 percent. EDA and ARC are eliminated while CDBG and UDAG are cut only 34 and less than one percent respectively.

Big cities will still be able to obtain development assistance from the Department of Housing and Urban Development. The Community Development Block Grant (CDBG) and Urban Development Action Grant (UDAG) Programs will remain at FY '82 levels, if the President's recommendations are approved by Congress. Similar programs for rural communities, funded by EDA, ARC and FmHA, experience a disproportionate share of program reductions.

CDBG - UDAG PROGRAMS

It has been suggested that rural development efforts could withstand these reductions, because the CDBG and UDAG programs finance similar projects. The $1.1 billion reserved for the non-entitlement block grant programs represents an increase over past allocations for small cities. However, these funds must be distributed to metropolitan small cities (formerly funded through a separate "hold-harmless" provision) and non-metropolitan communities. Furthermore, there is no guarantee that state governments will choose to fund the kind of development programs now available from EDA.

While the UDAG program may be an effective development tool in urban areas; it has not been as useful in rural America. Because the program funds are awarded to communities based on the prospective number of jobs created, rural jurisdictions have not been successful in obtaining grants. The UDAG program is considered labor intensive. Rural areas are in need of capital intensive programs, which provide the basic infrastructure needed to attract business.

RURAL NEEDS, INFRASTRUCTURE DEVELOPMENT AND PRIVATE SECTOR INVESTMENT

Some rural areas are growing while others continue to decline. The 1980 decennial census shows that population in rural regions rose by 15.4 percent between 1970 and 1980. The increase has placed new burdens and pressures on local governments. The demand for services is up, and the need for new jobs is evident. A recent U.S. Department of Agriculture study has shown that many small farmers are able to keep their farms because of outside jobs. The availability of jobs, according to the study, is the most serious economic problem for small farmers. Despite growth in certain regions, there is a lack of employment and opportunity in rural regions. Consider these facts:

- Over-Specialization by Economic Sector - Rural Areas are often dependent upon one of two economic activities for the majority of employment. Dominant activities vary from one area to the next. Mining, agriculture, forestry, fishing and tourism are the usual major employers. Example: In 1979, 16.1 percent of South Dakotans were employed in agriculture, while the national average 3.8 percent.

- Isolation - Rural areas are often physically and culturally isolated from major markets. Examples include the fact that rural products may have to travel several hundred miles to reach their markets and the fact that rural manufacturing firms may not be as aware of changes in consumer habits as firms closer to major consuming areas.

- Transportation - Many rural areas lack the air and rail facilities to attract and hold business. Adequate transportation facilities are not only absent in many rural areas, but others like secondary highways and bridges are poorly maintained due to a lack of funds.

- Unemployed are Exported - Unemployment figures for rural areas are often misleading because the unemployed usually leave after a period of unsuccessful job searching.

- Small Community Tax Base Make Debt Financing Difficult - Rural Communities often lack the ability to build public facilities to attract business on their own. The small tax base of many rural communities prohibits any expansion of existing utilities without outside help.

- Historic Demand Shows Greater Need in Rural Areas for Basic Facilities Aid - Rural areas have historically sought different types of federal assistance than urban areas. In 1978, non-metropolitan areas received $49 more per capita in community facilities assistance, $40 more per capita in business and industrial development, and $21 more per capita in natural resources outlays than urban areas. Urban areas received $224 more per capita in defense contracts, $66 more per capita in housing, and $33 per capita more in transportation. (U.S. Dept. of Agriculture, 1980.)

- Poverty Indicators Higher for Rural Areas - According to White House Rural Development Background Paper "Social and Economic Trends in Rural America":

1) Incidence of poverty is significantly higher in rural areas than in urban areas (35 percent of nation's poor are rural)
2) Rural people experience poorer health than urban people. Also, there is a shortage of health services and medical care in rural areas

3) Incidence of substandard housing continues to be more than three times as high in rural areas as it is in urban areas

4) Per capita income in rural areas lags behind the national averages for per capita income

- Rural Areas Lack Capital Markets - A February, 1981 study done for the U.S. Department of Commerce, "An Empirical Analysis of Unmet Demand in Domestic Capital Markets in five U.S. Regions," reported:

1) Unmet capital demand is highest in rural areas
2) Small firms have the most difficulty obtaining capital, and
3) Independent firms are at a disadvantage in capital markets

The needs of rural areas are unique. Jobs are needed, but few firms will locate in areas where the most basic facilities are inadequare or not in place.

NADO's member organizations have assisted local government in obtaining federal aid for the establishment of water and waste disposal systems; the laying and paving of roads; and the building of public facilities. These are not luxurious or extravagant expenditures. Proper infrastructure development and maintenance is vitally important and linked to private sector investment. Communities which have proper infrastructure and public facilities have a better chance of attracting private business and industry. Districts are also helping businesses directly through revolving loan funds.

ECONOMIC DEVELOPMENT DISTRICTS

By working cooperatively through an economic development district local governments and the private sector can maintain and create jobs with a minimum of control from Washington and maximum local participation. The district approach to job creation has developed a partnership between local governments and the private sector which is exactly what the Administration is supporting.

I would like to quote what a consultant's study of the EDA district planning program said:

> "The most important impact districts have accomplished has been serving as a catalyst to make political and business leaders realize that economic development is a process, that they can and must have influence on that process to ensure it occurs at levels adequate to meet the economic needs of their area, and that the process proceeds more efficiently and frequently when the public and private sector work at it together. In every district the planning grants made a difference. In every district there were accomplishments that would not have happened without the 301b program."

CONCLUSION

This is why we are advocating continued funding for economic development in the way HR 6100 proposes. As we have noted in this testimony the basic needs in smaller cities and rural areas are for public facilities and infrastructure, capital for small businesses, and technical assistance to public and private institutions so they can work cooperatively. This is what HR 6100 would provide, and why we ask for funds to implement this approach.

We understand a companion bill to HR 6100 will be introduced in the Senate and hope the members of this Subcommittee will support it.

Since NADO is the only public interest group testifying today on behalf of this agency, I want to let you know that all of the public official organizations have gone on record supporting continuation of the Economic Development Administration funding including: the Nation Association of Counties, National League of Cities, U.S. Conference of Mayors, National Association of Towns and Townships and National Association of Regional Councils.

We hope this Subcommittee will continue to provide funds for these important economic development activities.

STATEMENT OF EBEN M. GRAVES, JR.

Mr. Chairman, my name is Eben M. Graves, Jr., I am chairman of E. M. Graves & Co. Investment Advisory, Inc., a Connecticut based SEC registered investment advisor to corporate pension funds. My company is believed to be the first pension fund manager to invest in federal loan guarantee securities originated through local lending banks, guaranteed by a federal agency that collects a 1% guarantee fee and sold to pension funds we manage through a secondary market. The interest rate on these federal loan guarantees is determined by the free market supply/demand mechanism. Fixed rate paper is pegged to the Government National Mortgage rate and variable rate paper is pegged to the New York prime rate of interest.

The overall role of federal loan guarantee programs in the capital markets is to provide a government guarantee on loans originated and priced in the private sector. By providing a government guarantee, local lenders(small banks and small insurance companies) can make longer term capital available to small and rural businesses. These federal loan guarantee programs largely provide through local lenders the only sources of term capital to small and rural businesses.

I illustrate with an example: Say John Doe has a small manufacturing plant in Oklahoma that needs to build a new warehouse and buy some new trucks. He goes to his local bank which is a small bank with a loan request for a 20 year mortgage on the proposed warehouse and 10 year loan on the trucks. The local banker says, "Well John, we really don't like to make 20 year mortgage loans or 10 year equipment loans. Couldn't you get along with a 1 year loan that we might renew next year if your business is still good and your financial statements look alright?"

John Doe can't live with a short term bank loan. He has to have a long term loan matched to the life of the new capital assets he needs to purchase for his business which currently employs 20 people. If he gets the loan on the terms that he can repay he will employ 5 more people.

Doe looks rather glumly at the banker. Then the banker says, "We could make this loan under either the SBA or FmHA Business and Industry loan program. It will be an SBA loan if you don't need more than $500,000. However, your total loan request is for $1,200,000. Let me call FmHA and see if you would qualify." The call is made. It appears that Doe's business qualifies.

Doe is puzzled and asks the banker why he would lend long term debt capital under the FmHA B&I guaranteed loan program, when he wouldn't lend a dime conventionally without a federal loan guarantee.

"Well John," the banker answers, your loan will probably be guaranteed up to 90%. When the funds are disbursed to you I, the bank, can sell the guaranteed portion of your loan into the national secondary market and recoup 90% of the funds I lent you. This allows me to make a larger than ordinary loan to you. Remember, we are only a little country bank. Also, I can make a long term loan to you, one that matches your ability to repay. To get the government guarantee you have to satisfy their credit requirements which are as stringent as those imposed by our own credit committee. You will also have to pay a 1 percent one time guarantee fee. This is paid direct to the FmHA. The interest rate I charge will be competitive with other market interest rates. The rate will be determined by competitive bids received from the secondary market sources. The rate you will pay will be a half to three quarters of a point higher than the market rate on a Government National Mortgage Security. The bank will keep one-half percent of the rate you pay on the guaranteed portion of the loan as a servicing fee. We will continue to collect interest and principal payments on your loan and pass through to the pension fund purchaser the balance of interest and principal monthly".

"If there was no secondary market for these FmHA and SBA loans, we could not lend you long term capital to expand your business. The secondary market is a free system that simply and efficiently allocates capital saved in the pension system back into investment in small and rural American business."

"The reason the secondary market works is that the government guarantees and charges for that guarantee on your loan. When your loan goes into the secondary market there are four beneficiaries:

"(1) You, the borrower, get term capital you normally could not get.

"(2) A small country bank like us, can make a big loan, a loan we normally could'nt make to you a valued local business.

"(3) The nations pension funds get a full, faith and credit obligation with an interest rate competitive with corporate bonds

"(4) The American taxpayer doesn't have to pay a subsidiary for you get this loan. You, the borrower, paid the government for the privilege of getting a federal loan guarantee. You paid 1% of the proceeds of the loan. If less than 1% of all borrowers go broke around the country, the U.S. Treasury makes money."

Borrower Doe says, "You mean that the government guarantee makes the secondary market possible?"

Banker: "Absolutely. The government guarantee makes your loan a safe investment, one of the safest high yielding investments a pension fund could purchase." Best of all, states the conservative banker, "you and I, the taxpayers, don't get hit with increased cost of the federal budget in our taxes."

"How many FmHA Business and Industry Loans are outstanding?", asks borrower Doe.

The banker replies, "There are currently 3,546,397,621 FmHA B&I guaranteed loans currently outstanding. All these loans were made by small rural banks in 50 states like us. Ninety-seven percent were sold into the secondary market. This was a God send in that we could not have made the loans otherwise. Of the $3.5 billion worth of loans made, 1.16% defaulted. However, when you subtract the $31,917,578 collected in guarantee fees from the default figure ($41,014,000), you get a net loss figure of $9,096,422. This is the real cost of the FmHA B&I program. . . The cost to you and me as taxpayers. It represents .26% of the total $3.5 billion in loans made.

"That doesn't sound like much money when you look at the really wasteful direct loan and subsidiary programs the government sponsors", states John.

"It isn't any real money at all arrayed against the size of the overall federal budget. In fact, if the guaranteed fee was raised by FmHA to 1½%, the program would actually make money."

"If you look at the amount of new jobs created or saved, a very hard case can be made that the FmHA, B&I and SBA section 7A guarantee loans actually do make money. Every new person going into the work force pays taxes. Every person who has a job saved doesn't go on unemployment of welfare or need government assistance."

The Banker continues, "the $3.5 billion in FmHA B&I loans created or saved 273,134 jobs in rural America. The cost per job was $33.30. This was the lowest cost per job on any federal loan guarantee program", states the banker.

"Gee, I guess the new Republican Administration is using the FmHA B&I loans program as the example of supply side economics and how a well administered federal loan guarantee program priced and run through the private sector allocating capital to creditworthy concerns ...I guess the new administration is pushing programs like this."

"No John," replied the banker, "the Office of Management and Budget has tried to completely eliminate funding of the FmHA B&I program. If the current funding of $652,280,250 isn't restored to the $1 billion level, I'm afraid we can't make your loan. Instead of expanding your business and employing more people, you may have to cut back and lay some people off. You might try SBA, their budget is only being cut $500 million or 18% in 1982. They may have some money left." (SBA & FmHA statistics are Exhibits A & B).

The borrower is silent. The banker resumes his rather dreary soliloquy, "The worst thing that these budget cuts will accomplish is to kill the secondary markets which depend on certain levels of supply of paper to fuel the pension funds' and savings institutions' purchasing interest. The secondary market, along with the passive government guarantee, is what really has been recycling savings capital into investment capital. It's really a shame. Instead of cutting these pure secondary market programs, the Congress and administration should have gradually increased them and eliminated the direct loan and subsidiary programs and used the interdepartment savings to increase FmHA B&I to the $4 billion budget level and leave SBA-Section 7A loans at the $4 billion level. No, John, I'm afraid that when they started cutting, they really didn't look too carefully at what they were cutting." Now that we are in the recession with unemployment at 9% and rising, we really need these federal loan guarantee programs that provide the only viable source of term capital to small and rural business. Small Business represents 90% of American business in absolute numbers, and employs 85% of the American people. The Reagan administration, has it seems, completely abandoned small business - eliminating the source of term capital.

BIOGRAPHY OF EBEN M. GRAVES, JR.

Education: Mr. Graves graduated from Westminister School in 1959 and The University of Pennsylvania in 1963 with honors. He headed the student judiciary committee, the dean of men's committee on discipline and won five varsity letters in football and lacrosse. Mr. Graves earned a masters degree in Business Administration, started at the Wharton School of Finance and Commerce and finished at New York University Graduate School of Business. ,

Military: Mr. Graves was a Lieutenant in the U. S. Army Security Agency attached to the 101st Airborne Division from 1963-1965.

Business: Mr. Graves joined Drexel Burnham's Investment Banking Department in 1968 and rose to be vice president in fixed income sales in 1975.

Mr. Graves started and headed the Federal Financing Department of Merrill Lynch Pierce Fenner and Smith in 1975.

He founded his own Connecticut based investment management firm in 1976. He is an expert on the federal loan guarantee security, priced and sold through the secondary market.

Affiliations: President's Council on Small Business, Former Chairman of Federal Loan Guarantee Dealers Association, Connecticut Council on Small Business, Sustaining member of the Republican National Committee.

Articles and books: "The S.B.A. and FmHA Loan Programs" cc 1976. "A Totally Unique Approach to Fixed Income Management." "Beyond Immunization in Bond Management." cc 1981.

EXHIBIT A

B & I PROGRAM

CLOSED LOANS = $3,546,397,621

PENDING DISB. BUT OBLIG. IN PRIOR YEARS = $1,000,000,000

DEFAULTED CLOSED LOANS = 1.16% = $41,014,000

GUARANTEED FEES COLLECTED = $31,917,578

TOTAL BORROWERS - (CLOSED) = 3551

TOTAL DELINQUENT BORROWERS = 489

PERCENT OF DELINQUENT = 13.77%

DEFAULTED CLOSED LOANS:	$41,014,000
LESS: GUARANTEED FEES :	$31,917,578
NET - COST OF PROGRAM :	$ 9,096,422
	0.26% OF THE $3.5 BILLION DOLLARS OF LOANS

TOTAL JOBS CREATED & SAVED TO DATE: 273,134

COST PER JOB: $33.30

FISCAL 1981 - TOTAL EMPLOYEES 85 - DOWN FROM 135

$652,280,250 - LOANS ON $751,000,000 APPROPRIATION

DEFAULTS - 0 -

TOTAL JOBS CREATED & SAVED IN 1981

CREATED - 20,083

SAVED - 19,980

TOTAL - 40,063

EXHIBIT B

SBA #7A GUARANTEED LOAN PROGRAM

FY 81	22,288 loans 22,000 borrowers
FY 81	$2,805,000,000 - Dollar amount of loans
FY 81	$ 22,700,000 - Guarantee Fee
FY 81	$8,936,000,000 - Total Loans
FY 81	$ 465,000,000 - Delinquencies
FY 81	5.2% - Percentage of delinquencies of total $8,936,000,000 outstanding
1953 (SBA inception) to FY 81	104,793 - Total other SBA loans outstanding (guaranteed - not direct loans - but other than #7A)
1953-FY 81	5,250 - Total delinquencies
1953-FY 81	258,363 - Total 7A loans
1953-FY 81	$22,400,000,000 - Total 7A loans
1953-FY 81	3.9% Total loss rates
1953-FY 81	9.5% Worst case potential loss rate

Per $25,000 of loan amount, 1 job is created at a cost of $2,375 per job

112,200 jobs created (e.g., $22.4 billion, divided by 25,000)

Statistics to show that Administration is against small business - even when jobs are created at a period of high unemployment at a minimal cost.

First Quarter FY 81	7,578 loans, $988,000,000 (7A Loans)
First Quarter FY 82	2,803 loans, $346,000,000 (7A Loans)
January 31, 1982	$500,100,000 #7A loans approved but undisbursed.

STATEMENT OF DANIEL FENNELL

Senator Weicker, Senator Hollings, my name is Daniel Fennell and I would like to thank you and the Subcommittee members for the opportunity to enter this testimony on behalf of the Trade Adjustment Assistance Program for firms and industries which is enabled under Chapter 3 of Title II of the Trade Act of 1974. I am the Director of the Mid-Atlantic Trade Adjustment Assistance Center which I will refer to as the TAAC. We are headquartered at One East Penn Square, Philadelphia, Pennsylvania and also have offices in the Investment Building, 239 Fourth Avenue, Pittsburgh, Pennsylvania. Until November of 1981, we had an office at 210 North Charles Street, Baltimore, Maryland. The TAAC is administered by the Council for Labor and Industry, a private, non-profit, regional economic development corporation which was established and is directed by representatives of industry, labor, government and professionals in strategic planning and area development. Until April, 1980, the Council operated the TAAC in conjunction with Penjerdel, the Pennsylvania, New Jersey, Delaware Chamber of Commerce, with whom we still participate on other joint programs.

The TAAC enables the Council, and the host organizations of ten other TAAC's situated throughout the country, to work intensively, in a consulting relationship, with a startingly large number of companies whose businesses have been disrupted by the influx of imported products. A January, 1981 study commissioned by the U.S. Department of Commerce has estimated that in the 50 states and District of Columbia there are more than 48,000 firms employing over 4,000,000 people in industry sectors impacted by imports. Our headquarters state of Pennsylvania ranks third in the number of people employed by such firms: 300,000 people are employed there in 3,000 impacted firms. California and New York rank number 1 and 2 in affected firms; Illinois is fourth, with figures very similar to Pennsylvania's. More than 250,000 workers are employed by such firms in the state of Ohio, which, like Michigan, New Jersey, Texas, Florida, Connecticut, Wisconsin and Indiana has more than 1,000 affected firms. In the Chairman's home state, 100,000 people are employed by these firms. Import affected firms in Sentator Hollings's South Carolina employ more than twice the number of workers per firm that Connecticut does. Thus, in two-thirds fewer firms than Connecticut has, South Carolina employs 70 percent as many workers. In fact, every state represented on the Senate Appropriations Committee has,in proportion to its manufacturing population, significant numbers of firms and employees whose markets and positions have been undercut by imports. Missouri, Minnesota, Rhode Island, Tennessee, Washington, Georgia and North Carolina are each in the "top" twenty in number of firms, with no less than 55,000 workers in any one state: In Tennessee and Missouri, employment in these firms is over 100,000; and in North Carolina and Georgia it is close to that figure. Alabama, Oregon, Virginia, Maryland and Kentucky, 21st - 25th in number of firms, average 55,000 employed in them. If I were from Arizona, New Hampshire, Arkansas, Louisiana or Mississippi, I would be interested in the close to 300 firms and 35,000 - 50,000 employees in each of those states which make them 31st - 35th on the list in number of affected firms. Utah and Nevada each have more firms than a dozen other states, and Hawaii's 41st place would remind me that the beautiful islands do not only draw tourists but are increasingly attractive as a marketplace for imported goods, as well. Idaho, 40th in number of firms, has twice as many employed in them as Hawaii does; and neither West Virginia, New Mexico, Vermont, Alaska, the District of Columbia nor North or South Dakota are immune from the impact of imports.

Although there are only eleven TAAC's, service is provided by them to firms in every state. The Rocky Mountain TAAC has been established just this year to work with firms in that region. My own center provides consultant services and management assistance to firms in 5 states: Pennsylvania, Delaware, Maryland, Virginia, and West Virginia. TAAC services are paid for both by funds from the International Trade Administration and by fees from assisted firms who pay at least 25 percent of chargeable costs. Although each TAAC is an independent organization and is not a part of the Federal Government, we work cooperatively with the Office of Trade Adjustment Assistance, which is a part of the International Trade Administration in the Department of Commerce. I have attached a list of all the TAAC's, the names of their Directors, their addresses and the regions which they serve. While I am from the Mid-Atlantic

TAAC, my remarks relate to all of the TAAC's and each of those Centers has agreed to my statement.

I would like to make it clear that I am not testifying against the Administration, but for the program. My purpose is to enlarge your perception of its activity, to bring into view some of the successes which it has achieved, and to ask your support in continuing it.

I understand that the Administration has proposed to terminate Trade Adjustment Assistance for firms and industries because the loan portfolio is weak and only 65 firms per year have benefitted from loans and loan guarantees. I respectfully submit that neither the program nor its accomplishments is either accurately or properly portrayed by isolating on the lending activity. The number of firms benefitting from loans is a small percentage of the firms with whom TAAC's have worked. Furthermore, about 100 of the loans in the portfolio, nearly one-third of the entire portfolio, were made before TAAC's existed; the number of loans per year has declined steadily since fiscal year 1979 (the amount closed in 1981 is 46 percent of the 1979 figure); the screening of firms and scrutiny of loans has tightened during that period; and, last year, the Congress further strengthened the loan provisions of the Act. It should be remarked, as well, that even with the deliquency rate that has been experienced, the government has not lost money on its loans. In fact, for the whole PWEDA portfolio (of which Trade Act Loans have been a part) there is a net plus balance of approximately $5,000,000. An important development in the financing activity of the program has been its closer linkage with technical assistance. This has meant that loan resources and technical consulting resources are employed in tandem. As a result, business objectives are more attainable, and loans are more secure, closely tied to feasible recovery steps in a strategic turnaround plan.

However, there has been no account of the impressive nature and level of technical consulting help and the hundreds of firms who have not received loan assistance, but who have gained valuable insights and adjustment directions from the consultants provided by or through the TAAC's; nor have the industry association grants, which have gone for strategic examination of 20 key sectors, been described.

According to an independent evaluator of the program, while approximately 75 EDA loans were closed during FY 1980, the second year in which TAAC's operated, over 1100 firms received technical assistance from TAAC's. A substantial number received professional consulting assistance in such areas as production and manufacturing processes, development of incentive programs for workers, strategic marketing and management counseling, installation of control systems and financial forecasting techniques. By far the largest proportion of these firms have not come to the government for loans. As you know, Congress, which established the loan feature of the Trade Act, also established the government as the lender of last resort. In doing so, it accepted the risks associated with such a provision. However, many firms who originally thought that their principal need was a government loan have been shown by the TAAC's that this was not the case. Often, necessary cash flow and working capital has been generated through efficiencies in inventory turns, scheduling and loading, and more effective pricing. Many firms have been able to re-enter commercial financial markets after they strengthened their operations and controls. Besides the loan applications which have come to the Government, we estimate that TAAC's have assisted in obtaining nearly 100 loans from non-Federal sources. I know that even more firms than that have been able to maintain banking and factoring relationships which were threatened before TAAC assistance began. In our TAAC area we believe there have been 51 firms who did not get Federal financing but who were able to regain or maintain other lending relationships because of the plans they had put into place. In one instance, a $500,000 loan through TAAC helped to leverage a $17,000,000 package from other sources, the largest amount of which came from private investment.

Related to the operations of the TAAC's, which work directly with management of individual firms, the Office of Trade Adjustment Assistance has, for 4 years, conducted a program to develop practical remedies for industry-wide problems in critical sectors. To date, there are twenty industries which have benefitted from these examinations and the action strategies which have emerged and are still emerging from them. These industries, each heavily hit by imports, collectively employ over 2,737,000 people, embrace 26,348 firms, and account for $158,445,000,000 a year in shipments and $77,684,000,000 added value. I have included a summary of figures for these nineteen industries as part of this statement. The recipient of the twentieth grant, the Gulf States Fisheries Foundation, represents an industry segment peculiar to its area. Its figures have not been presented with the others.

Mr. Ed Levy, the Executive Director of the National Handbag Manufacturers Association has submitted testimony about the positive effect this program has had in the handbag industry. There has been testimony submitted from Dr. Michael Oslac, President of The American Loudspeaker Manufacturers Association, about the benefits of the program on his industry. The hand made glass industry is an illustration of a sector in which, as imports have increased by 25 percent, employment has decreased by 29 percent. With assistance from the Department of Commerce, the glass industry, concentrated in Ohio, Pennsylvania, West Virginia and Southern states has concluded impressive evaluations of production, technology and marketing in relation to domestic prospects and foreign competition. It has identified new opportunities for American manufacturers.

In Philadelphia, a footwear center has been established which is so well-regarded by shoe manufacturers that it has merged with the National Association in that industry and is now being supported almost 100 percent by the industry itself with little need for further Government help. Through the industry program, the apparel industry, still the second largest manufacturing employer in Pennsylvania and a key employer in the North, Southeast, Midwest and West has developed techniques for improved productivity and technological innovation. Another initiative in this sector has been an apparel and textile exporting program which has assisted some of the major associations to create a strategy and techniques for competing more aggressively in international trade.

These efforts are not palliatives for declining constituencies but serious, hard-nosed approaches to regaining competitive positions. The industry program and the program for firms complement one another. Together, they have reached a significant number of firms in labor intensive industries which, cumulatively, are large employers and can be tough competitors.

We are well aware of the distinction between this Trade Adjustment Assistance Program, which is operated by the Department of Commerce, and the Trade Adjustment Assistance program for workers which is operated by the Department of Labor. The President distinguished between them in his Economic

Recovery Program last year. It should be noted however, that assistance for firms and industries benefits workers, too. The real difference is that the program for firms helps workers to keep their jobs, the other program helps those who have lost their jobs.

Successes with firms do not only preserve existing employment in a company, but sometimes increase it as well. This is the reason that the Philadelphia Central Council of the AFL-CIO has recently sent a letter to all of its participating unions urging them to bring the program for firms to the attention of companies with whom they have collective bargaining agreements.

We are pleased to be involved in a program that does so much for businesses and workers with the attendant benefits to the community. We see the results everyday. One firm with whom we worked was on the verge of closing its doors, letting 150 workers go. Our consultants diagnosed operating inefficiencies, installed a new costing system, laid out the plant more efficiently, created an incentive system for workers, and developed comprehensive marketing and management information programs, tailored to operations. This firm subsequently applied for loan assistance, but not until its house was in order. Although it has not closed yet on this loan, already 150 jobs have been saved, operating margins have increased from 2 percent to 10 percent, with a prospect of doubling that, employment has increased by 25 percent and is likely to expand by another 50 percent beyond that. Another one of the firms we are working with tripled sales while TAAC was diagnosing its problems and establishing remedies. There was no loan, just a re-examination of markets and operations. The firm, Gaines Manufacturing, in Gaines, Pennsylvania, attributes its expansion exclusively to the work of TAAC. These are not isolated examples. The March 1982 issue of Inc. Magazine reported under the heading "Smart TAACtics" on assistance to Gillette Industries, a Wisconsin manufacturer of down outerwear. Three years ago the firm was facing fierce competition from Chinese imports. "With our production costs at $5 an hour, compared to 25¢ an hour for goods produced in China, it's easy to guess who was going to win," said company president Terry Gillette. With assistance from the Midwest Trade Adjustment Assistance Center, Gillette Industries was able to research its options and now produces a line of designer fashions not threatened by overseas competition.

I have included with my statement 37 additional illustrations of the kind of operational improvements which TAAC's have catalyzed. I would like to have them incorporated by reference in my testimony. These few, short case histories from each TAAC area will give you a further indication of what is being done for the many more employers and employees for whom we work.

I do not think that anyone seriously related to the program would suggest that it has all been a rosy picture. Mistakes have been made. It has not always been easy to move from idea to actuality or from prescription to practice. However, when mistakes have been made, they have led to correction. I would venture that this is one of the few Federal programs of this size and complexity that has conducted serious, independent evaluations for the primary purpose of identifying successful approaches and effecting improvements within the program.

The move to the International Trade Administration, for instance, was accompanied by important improvements. Coordination of technical assistance is now centered in Washington rather than diffused through six regional offices. I am not an unflinching advocate of centralization, except when it represents efficient streamlining, concentrated effort and consistent application of policy.

That is the case here. In the regions, trade assistance was one among many responsibilities of regional offices. It often got less attention than was needed from them. There were sometimes long delays, differing guidance, inconsistent direction. Now we get quick answers - even if we do not always agree with the answers. The Office of Trade Adjustment Assistance has sought the insights of TAAC's in re-fashioning the program, and has acted on these insights. There is greater compatability of view and a much closer working relationship than there was before.

Together, we have refined an adjustment plan procedure which has been remarkably effective in focussing on a logical turn-around for firms. Through the TAAC's, a firm does not file for financial assistance unless a diagnostic survey has examined its strengths and weaknesses and a plan which builds on the strengths and redresses these weaknesses has been crafted. Financial assistance must support realistic stages in a feasible plan. If loans or guarantees are approved, continuing assistance from a TAAC is a covenant in the agreement. To keep a loan, firms must meet the milestones and indicators which are part of every plan. I have already given an example of a firm for whom financial assistance was not possible until after internal readjustments were achieved first.

Within the past year, the Office of Trade Adjustment Assistance has given us more useful guidelines and procedures for developing assistance plans, carrying out the program, and counselling firms. The firms themselves have more confidence in us and more confidence that the Government knows what it is doing. Based upon responses from approximately 70 client firms selected at random from all the TAAC areas by an independent evaluator, we may conclude that:

- TAAC assistance has been responsive to the most important needs of firms,
- A majority of the firms contacted are making substantial progress towards a business turnaround,
- The vast majority of the clients contacted stated that the quality of technical assistance rendered by the TAAC's and/or their consultants has been excellent and has had a positive impact on the operation of the firm.

Besides those 70 firms, I am providing the names and addresses of approximately 350 client firms from all parts of the country who in the last several weeks have expressed their concern for the program.

Mr. Chairman and Members of the Committee, the Trade Adjustment Assistance Program for firms and industries which you have enabled in the past is unique in this country, and perhaps among other developed nations too, in stimulating a positive adjustment to the impacts of international trade. It can be one of the most effective such programs ever legislated. Nationwide, a team of experts has been assembled. A body of knowledge has been created. Firms have been strengthened. We are at the cutting edge of genuine techniques for responding to firms in periods of economic decline, techniques which, on the micro-level, are only now being studied in serious academic centers.

We support the President's desire to have America producing, competing, fueling its own growth with investment and creativity. We support and are committed to a strong and healthy industrial base in our country. We are concerned that this base is weakening and, in too many cases, eroding. We are experienced in positive adjustment strategies and we know that if improvement is boldly sought, many firms which are not competitive now can become so. Some have not only learned to compete with imports in this country, but have become exporters as well.

On the basis of its record, we think the program should continue. But it will go out of business if the Administration's zero budget proposal eliminates the Trade Adjustment Assistance program for firms and industries in fiscal year 1983. We know that over 80 percent of the jobs in this country are created by small businesses. If this program does not continue, many of these firms will not receive the positive adjustment help they have demonstrated they desperately need and can use to good advantage. This adjustment assistance is not available now and will not be available later from any other source than the Trade Act of 1974. The Small Business Administration programs for firms are considerably more limited than this program, both in the amount of dollars they can lend and, as importantly, in the depth of technical assistance which they can provided. There simply is not any other program around which can do what this one does.

Let me emphasize that Chapter 3 of Title II of the Trade Act, which provides adjustment assistance for firms and industries, is authorized to be in force until September 30, 1983. The Congress has decided that firms and industries that have been harmed by imports shall be entitled to apply for financial and technical assistance to carry out plans for their adjustment. The proposed budget would deny this assistance at the very time that imports are up, economic indicators are down and alternatives are fading.

The elimination of the program for firms is said to be consistent with the Government's move away from subsidy programs and toward a comprehensive economic plan to address "the real problems associated with deteriorating economic performance."

In our judgement the trade adjustment assistance for firms is not a subsidy program, nor is it exclusively, or even primarily, a government loan program. There is probably no more pragmatic effort, in or out of the Government, which addresses so directly "the real problems associated with deteriorating economic performance." Last year, the program was not only recognized as consistent with the President's Economic Recovery Program, it was the single program removed from the Economic Development Administration (EDA) and placed in the International Trade Administration (ITA) in order to preserve it. One of the staff of the President's Special Trade Representative (who is no longer with that office) remarked to me last year that the program was unique in the kind of work it did for firms and, perhaps more importantly, the kind of work it stimulated firms to do for themselves. The staff member had reached this judgement after visits to firms who had participated in the program.

I can understand that if this were a "give-away" program with merely short term or ameliorative purposes, it would be antithetical to the thinking of the Administration. In fact, however, the capacity-building which firms have achieved accords with the President's own approach to economic recovery. When President Reagan recently addressed the World Affairs Council in Philadelphia, he used the analogical distinction between teaching a man to fish as opposed to giving a man a fish to describe his view of the Government's role in the economy. He stressed that it was far better to "teach a man to fish", so he could be self-sustaining than to create a system within which he would remain dependent.

This program teaches a firm to fish. It is not a give away scheme, nor an entitlement program, nor an artificial support system; and we, its advocates, are hard-minded businesspeople, consultants, and practitioners. With others, we believe that the program can increase the productive efficiency and competitive position of American manufacturing firms, develop the technical capacity of American producers, and generate new products and markets for these American goods. Overall, the program contributes to the expansion of an efficient industrial base directly serving American Trade Policy.

It would be indeed tragic to terminate the program at this point. We ask that you restore the program for fiscal 1983. The authorization which you recommended for fiscal 1982 has already been cut by 44 percent during the year: The $50 million approved by the House last spring was reduced to $44 million through House-Senate Conference in the fall. The main part of that cut came from technical assistance. The amount was further reduced, after the President's veto, to $35 million. Those cuts affected both technical assistance and loan authority. I now understand that the Administration is reprogramming the fiscal 1982 budget to $28 million. We believe there can be a program for $30 million, although it is more limiting than at $50 million not only in loan dollars, but also in levels of specialist consultant activity.

You have created a program that is cost-effective. In their third year of operation TAAC's worked with 1255 firms having an estimated average of 96 employees each. For these 120,000 employees, the average cost per person of the technical assistance portion of the program was $150 - less than a week of unemployment compensation. The per-head cost, using the entire program budget of $50,000,000 as the total outlay (in fact, the budget was underspent and portions of it were for contingency set-asides or not related to firm assistance at all) was $416. There is not a jobs program in the country for a population anywhere near this size with cost that low. And the fiscal year 1982 costs are probably lower still - the budget is 44 percent less. More notable, however, is a consideration of what the government gets back for this outlay. Setting aside the readjustments which firms are able to accomplish and their attendant contributions to local and regional economies, the employees alone make a significant contribution to the Federal tax base. Conservatively estimating an average annual wage of only $10,000, these workers account for $204,000,000 a year in Federal taxes and unemployment insurance. In one year alone this represents more than seven times the fiscal year 1982 budget for the program, more than four times the face amount of all loans made by the program in calendar 1981, and more than 62 percent of all loans made between 1975 and 1981. If you wish to be more conservative still, as it is the temper of some of us to be these days, and discount the tax estimate by half, the amount still exceeds the total of 1981 loans and fiscal year 1982 program budget by 32 percent. And these estimates do not include corporate taxes, state or local taxes or other employment-related revenues, nor do they include the compounding of these figures in successive yearly iterations.

We believe that for the number of firms and workers involved, the results achieved and the work still to be done that this is not an expensive proposition. The program is needed. Do not abandon it at a time when it is realizing the very goals of the President's Economic Recovery Program.

TRADE ADJUSTMENT ASSISTANCE CENTERS

Mid-America TAAC
Brenda Perciful, Director
University of Arkansas
Industrial Research and Extension Center
P.O. Box 3017
Little Rock, AR 72203
(501) 371-1971

Area Covered: Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas

Mid-Atlantic TAAC
Daniel Fennell, Director
Suite 1400
One East Penn Square
Philadelphia, PA 19107
(215) 568-7740

Area Covered: Delaware, Maryland, Pennsylvania, Virginia, and West Virginia

Mid-West TAAC
Hiraim Whitcomb, Director
ILT Research Institute
Ten West 35th Street
Chicago, IL 60616
(312) 567-4774

Area Covered: Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin, Iowa

New England TAAC
Blanche Greenhill, Director
Suite 620, Statler Office Building
20 Providence Street
Boston, MA 02116
(617) 542-2395

Area Covered: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont

New Jersey TAAC
John Walsh, Director
CN 990
200 S. Warren Street
Trenton, NJ 08625
(609) 292-0360

Area Covered: New Jersey

New York Metro TAAC
Paul Radow, Director
17 John Street
Suite 500
New York, NY 10038
(212) 964-1213

Area Covered: New York City, Long Island, and Puerto Rico

New York State TAAC
William Williams, Director
4600 Old Vestal Road
Binghampton, NY 13903
(607) 729-2201

Area Covered: New York State (except New York City and Long Island)

Northwest TAAC
Bill Lotto, Director
1218 Third Avenue
Room 618
Seattle, WA 98101
(206) 622-2730

Area Covered: Alaska, Idaho, Montana, Oregon, and Washington

Rocky Mountain TAAC
Bill Scott, Director
3505 Austin Bluff Parkway
Suite 310
Colorado Spring, CO 80907
(303) 594-9449

Area Covered: Colorado, Nebraska, New Mexico, and Wyoming.
North Dakota and South Dakota

Southeast TAAC
Hardy Taylor, Director
Georgia Tech Research Institute
Engineer Experiment Station
Georgia Institute of Technology
Atlanta, GA 30332
(404) 894-3858

Area Covered: Alabama, Florida, Georgia, Kentucky, Mississippi,
North Carolina, South Carolina, and Tennessee

Western TAAC
Radford King, Director
University of Southern California
Denney Research Building
University Park
Los Angeles, CA 90007
(213) 741-8427

Area Covered: American Samoa, Arizona, California, Guam, Hawaii,
Nevada, and Utah

Firms Eligible to Apply for
TRADE ADJUSTMENT ASSISTANCE
Which have not yet received Financial Assistance
By State, By Industry
January 31, 1982

Alabama	
apparel	4
metal parts	3
	7
Arkansas	
apparel	1
bicycle horns	1
	2
Arizona	
air pumps	1
apparel	1
electronics, consumer	1
	3
California	
apparel	11
apparel trimmings	1
arc lamps	1
auto stampings	1
belts	1
bicycle carriers	1
boats	1
cabinet catches	1
ceramicware	1
computer equipment	1
electronic components	3
electronics, consumer	10
fabric	1
furniture	1
glass blanks	1
gloves (work)	1
handbags	1
jewelry	1
learning materials	1
machinery	1
metal castings	1
microcomputers	1
office machines	1
personal leather goods	1
roller skate bearings	1
skate boards	1
tape (recording)	2
t.v. cameras	1
wall paneling	1
	51

Colorado	
apparel	1
flowers	1
luggage	1
	3
Connecticut	
apparel	1
electric shavers	1
fishing tackle	1
footwear	1
mechanical paint strippers	1
telephone sets	1
	6
Delaware	
food	1
Florida	
apparel	4
boats	1
fabric	1
footwear	1
handbags	1
quartz crystals	1
	9
Georgia	
apparel	3
machinery	1
(sports) ball carcasses	1
stoves	1
towels (industrial)	1
	7
Idaho	
cedar shakes	1
stoves	1
	2
Illinois	
apparel	1
amusement rides	1
CB antennas	1
curtains	1
electronics, consumer	3
electronic counters	1
fasteners, industrial	1
fishing tackle	1
food	1
handles (purse)	1
key-chain holders	1
machinery	2
musical instrument pts.	1
office copiers	1
optical prisms	1
x-ray equipment	1
	19
Indiana	
apparel	4
belts	1
belt buckles	1
electronic components	1
electronics, consumer	3
fasteners, industrial	1
flowers	1
handbags	1
leather	1
machinery	2
metal parts	2
radio testing equipment	1
steel tubing	1
stoves	1
table legs	1
tires	1
wood heaters	1
	24
Iowa	
apparel	1
food	1
plastic parts	1
	3
Kansas	
fishing rods	1
Kentucky	
apparel	1
Louisiana	
apparel	1
Maine	
bedspreads	1
footwear	1
footwear components	1
limestone	1
snowshoes	1
wood household accessories	1
	6
Maryland	
apparel	3
drapes	1
electronic components	1
lithographic plates	1
luggage	1
machinery	1
umbrellas	1
	9
Massachusetts	
apparel	10
electrical appliances	1
electronic components	1
eyeglass frames	3
fabric	5
fasteners, industrial	1
fire trucks	1
flower pots (plastic)	1
footwear	3
footwear parts	3
handbags	2
holloware	1
leather	2
machinery	2
meat	1
paint brushes	1
stoves	1
t.v. antennas	1
tools (hand)	1
toys	1
	42
Michigan	
apparel	2
auto parts	2
industrial vises	1
metal parts	1
motorcycle accessories	1
wine	2
	9
Minnesota	
apparel	1
amusement rides	1
CB antennas	1

corn cribbing	1
toys	1
	5

Mississippi

auto wire harnesses	1

Missouri

apparel	2
personal leather goods	1
toys	2
	5

Montana

lumber	2

Nebraska

quartz crystals	1

Nevada

stoves	1

New Hampshire

apparel	3
electronic components	1
electronics, consumer	1
food	1
footwear	2
footwear components	1
ind. instrumnttn. meters	1
luggage	1
machinery	1
metal parts	1
stoves	1
	14

New Jersey

apparel	20
auto parts	2
brassware	1
ceramic machine parts	1
electrical equipment	1
electronic components	1
electronics, consumer	4
eyeglass frames	1
embroideries	1
fabric	7
flashlights	1
food	1
footwear	1
household accessories	1
jewelry	1
lamp bases	1
metal casters	1
pigment dispersions	1
plastics	1
rabbit skins	1
soap dispensers	1
sodium glucoheptonate	1
screwdrivers	1
steel products	2
	54

New York

apparel	59
auto accessories	1
ball bearings	1
books	1
buttons	2
candles	1
color separations	1
computer equipment	1
credit card imprinters	1
elastic fasteners	1
electronic components	1
electronics, consumer	3
electronic thermometers	1
eyeglass parts	2
fabric	3
fiberboard	1
fishing rods	1
food	1
footwear	3
footwear ornaments	1
fuel tanks	1
gloves	4
handbags	2
handbag frames	1
hangers (clothes)	1
heat transfer equipment	1
instrument cases	1
jewelry	5
lamps, medical	1
machinery	1
meat	4
metal parts	2
mineral water	1
photographic products	2
ping pong paddles	1
plants	2
plastic handles	1
solvents	1
toys	1
water valve curb boxes	1
wine	2
wood handles	1
wood household access.	1
	124

North Carolina

apparel	5
artificial flowers	1
baskets	1
fabric	2
flowers	1
heating elements	1
metal parts	1
wood accessories	1
	13

Ohio

apparel	2
ceramicware	1
electronics, consumer	2
fasteners, industrial	2
footwear	1
machinery	1
metal parts	1
plants	2
t.v. antennas	1
	13

Oklahoma

hunting accessories	1

Oregon

apparel	1
fireplace screens	1
lumber	2
shakes	3
	7

Pennsylvania	
animal traps	1
apparel	31
auto parts	2
batteries, storage	1
carpeting	1
electronic digital displays	1
eletronic heating elements	1
electronic components	1
fabric	3
fireplace accessories	1
food	7
furniture	1
glassware	1
gloves	1
jewelry	1
meat	2
mining equipment	1
plants	2
plastic molds	1
radio equipment	1
sanders	1
spring steel	1
steel tubing	1
stoves	1
toners for copying mach.	1
valves	1
watch faces	1
wire	1
	69
Puerto Rico	
apparel	2
food	1
furniture	2
table tops	1
tapes (recording)	1
	7
Rhode Island	
apparel	1
jewelry	3
metal products	1
	5
South Carolina	
apparel	1
amusement rides	1
fabric	1
	3
Tennessee	
apparel	1
auto parts	2
gloves	1
handbags	1
wood turnings	1
	6
Texas	
apparel	3
electronics, consumer	2
fuel tanks	1
handbags	2
quartz crystals	2
	10
Utah	
apparel	1
Virginia	
apparel	2
food	1
	3
Vermont	
electronic components	1
electronics, consumer	1
footwear components	1
	3
Washington	
apparel	2
boats	1
crystal housewares	1
flowers	1
food	8
lumber	1
shakes	33
toys	1
	48
West Virginia	
ceramics	1
glassware (gift)	3
	4
Wisconsin	
apparel	3
chemicals	1
fasteners, industrial	1
fishing rods	1
footwear	1
machinery	1
metal parts	1
tractors (garden)	1
	10
Total, all states	616

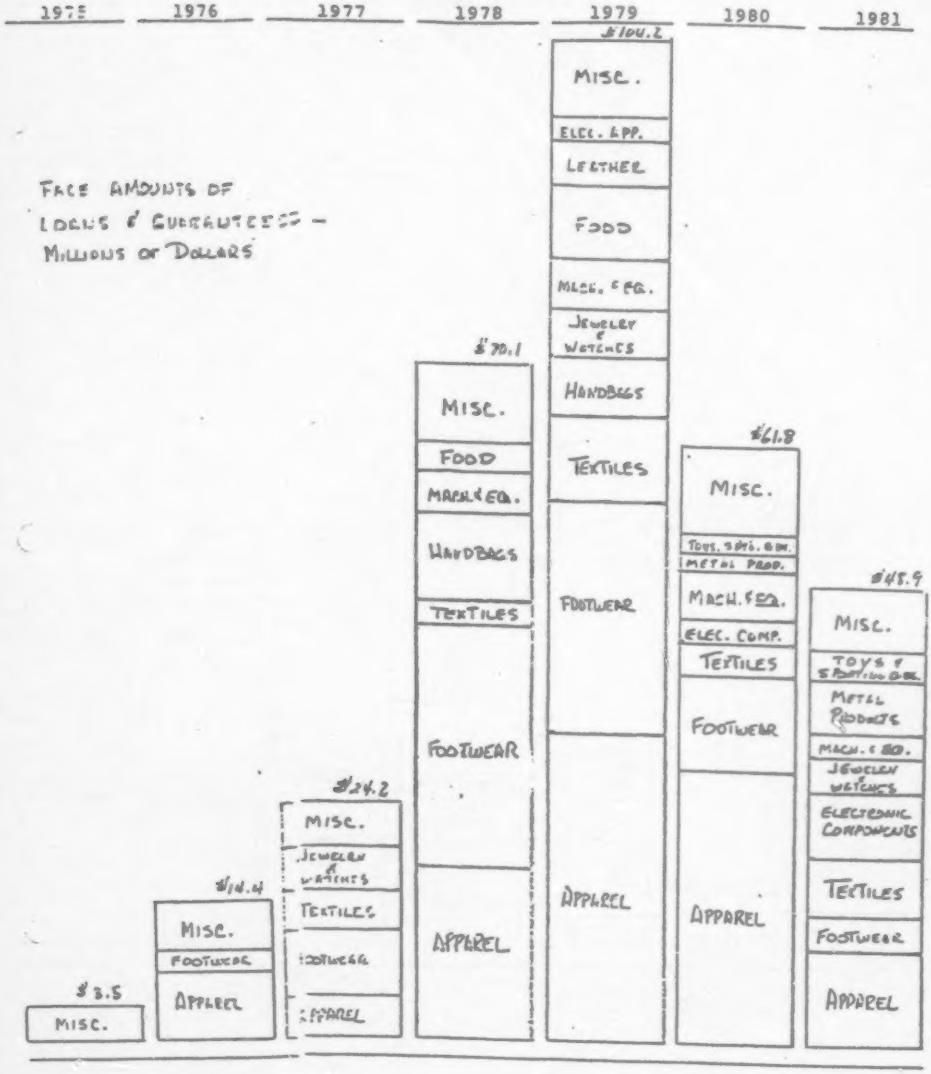
Source: Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce.

Firms Certified Eligible to Apply for
Trade Adjustment Assistance
by Industry

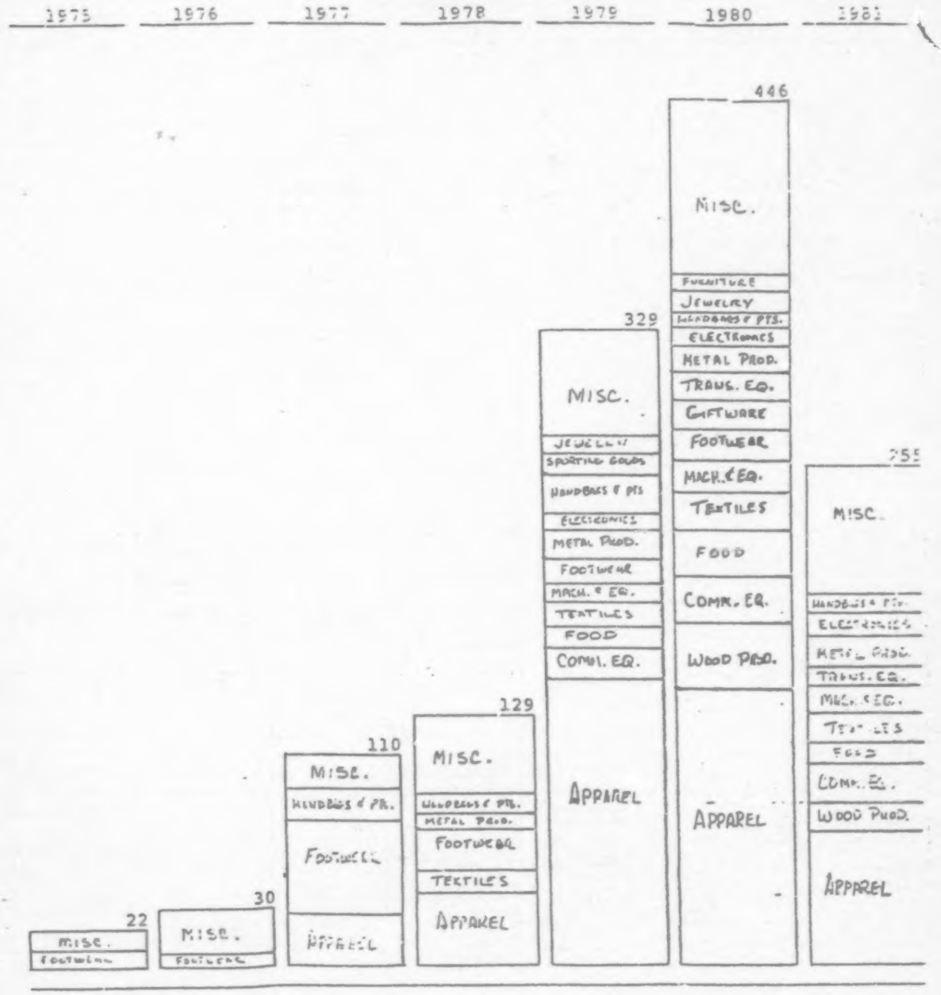
	Calendar Year							
	1975	1976	1977	1978	1979	1980	1981	Total
Apparel & Accessories	2	5	28	47	150	145	71	449
Footwear	9	8	49	31	13	17	3	130
Electronics	-	-	2	3	9	10	11	35
Handbags & Parts	-	3	16	10	20	8	9	66
Wood Products	-	-	-	-	4	35	15	54
Communication Equipment	2	-	2	4	15	25	20	68
Metal Products	-	-	1	7	13	14	17	52
Machinery & Equipment	-	-	-	1	10	17	13	41
Food	4	2	1	3	10	25	11	56
Textiles	1	1	2	11	12	20	13	60
Transportation Equipment	-	-	-	-	6	15	9	30
Giftware	-	1	2	1	3	16	5	28
Jewelry	-	1	2	1	8	12	2	26
Fasteners	-	-	-	1	1	7	6	15
Sporting Goods	-	1	-	1	11	6	5	24
Leather	-	-	-	1	3	5	-	9
Furniture	-	-	1	-	1	8	2	12
Flowers & Plants	-	-	-	1	5	5	6	17
Miscellaneous	4	8	4	6	35	55	37	149
Total	22	30	110	129	329	446	255	1,321

Source: Office of Trade Adjustment Assistance, International Trade Administration,
U.S. Department of Commerce

FINANCIAL ASSISTANCE AUTHORIZED FOR CERTIFIED FIRMS
Under the Trade Act of 1974
By Major Industry



MAJOR INDUSTRIES REPRESENTED BY FIRMS CERTIFIED ELIGIBLE TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE



Number of Firms Certified Eligible to Apply
For Trade Adjustment Assistance
Calendar Year 1981

Industry	No. of Firms Certified	Investigation Terminated or Petition Withdrawn	Petition Denied	Certification Pending 12/31/81	Total Petitions Accepted for Filing
Apparel	62	8	--	7	77
Apparel accessories, belts, billfolds, gloves, hats, scarves, zippers	9	3	--	1	13
Art objects, giftware, glassware, ceramicware	5	1	--	1	7
Beverages, wine	2	--	--	--	2
Bristles	--	1	--	--	1
Coal & coke	--	1	--	--	1
Communication & sound equipment (antennas, loudspeakers)	20	3	--	1	24
Electrical appliances, lighting	2	--	--	--	2
Electronic components	11	4	--	--	15
Fishing tackle	3	1	--	--	4
Flowers & plants	6	--	--	--	6
Foods (except mushrooms)	10	2	--	1	13
Footwear	3	2	--	1	6
Furniture & parts	2	--	--	1	3
Handbags	7	--	--	--	7
Handbag parts	2	--	--	--	2
Heating equipment	8	--	--	--	8
Industrial fasteners, hardware	6	1	--	--	7
Jewelry	2	--	--	--	2
Leather, skins	--	2	--	--	2
Luggage	4	--	--	--	4
Machinery & equipment	13	2	--	3	18
Metals: bars, wire, pipe, sheet, strip, rod, fabricated steel	5	4	--	--	9
Metal castings, forgings, stampings, molds	12	2	1	1	16
Miscellaneous**	7	--	--	--	7
Mushrooms	1	1	--	--	2
Optics: eyeglass frames, molds, parts, lenses	3	1	--	--	4
Plastic products: molded, laminated, sheet	5	--	--	--	5
Sporting goods (except fishing tackle	2	1	--	1	4
Stone products	--	1	--	--	1
Textiles	13	2	--	1	16
Tools	2	--	--	--	2
Toys	4	1	--	1	6
Transportation equipment & accessories (including boats)	9	5	--	--	14
Wood shakes & shingles	7	1	--	1	9
Wood & panel products (except shingles)	8	3	--	--	11
TOTAL	255	53	1	21	330*

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*Includes 54 firms whose petitions were accepted in 1980 for determinations in 1981.

**Includes one certified firm in each of the following industries: (1) amusement rides; (2) animal traps; (3) bearings; (4) footwear components; (5) musical instruments; (6) soap dispensers; and (7) watch faces.

Source: Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce

Table 1

HANDBAG PRODUCTION, IMPORTS, AND EXPORTS: 1967, 1972, 1977-1980

(Quantity in 1,000 Units; Value in 1,000 Dollars)

Year	Domestic Production[1]		Imports[2]		Exports[2]		Apparent Domestic Market		Imports As A Percent Of Domestic Market	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1967	97,000[3]	312,100[3]	39,560	44,938	1,037	2,276	135,523	354,762	29.2	12.7
1972	90,100[3]	344,400[3]	67,180	86,890	665	1,562	156,615	429,728	42.9	20.2
1977	55,800[4]	436,200[5]	92,764	207,062	1,135	4,560	147,429	638,702	62.9	32.4
1978	62,700[6]	531,500[7]	138,892	310,382	2,240	9,570	199,352	832,312	69.8	37.3
1979	52,800[6]	518,000[8]	120,356	299,806	3,170	10,949	169,986	806,857	70.8	37.2
1980	53,500[6]	559,000[8]	143,711	350,562	4,227	15,480	192,984	894,082	74.5	39.2

[1] U.S. producers' shipments.

[2] Department of Commerce data. Imports from FT-246 and FT-135. Exports from FT 410, includes exports of parts under item 807.

[3] Based on data in Census of Manufactures; 85 percent of value data for both 1967 and 1972 also had quantity data. Unit value for these data was applied to remaining value data to get total quantity.

[4] Estimated based on available quantity data for plastic handbags in the 1977 Census, increases in the wholesale price index for leather, and the estimated increase in average unit values of other handbags since 1972.

[5] Based on data from final 1977 Census of Manufactures.

[6] Estimated based on increases in the wholesale price index (producer price index beginning March 1978) for "other leather and related products."

[7] U.S. Department of Commerce data in the Annual Survey of Manufactures.

[8] Estimated by Department of Commerce in 1981 U.S. Industrial Outlook.

GROUP NUMBER I-3021

IMPORTS

HANDBAGS

	MONTH OF DEC		- - JANUARY TO DATE - -				MONTH OF DEC		- - JANUARY TO DATE - -		
	QUANTITY	VALUE ($)	QUANTITY	VALUE ($)	VALUE 81/80		QUANTITY	VALUE ($)	QUANTITY	VALUE ($)	VALUE 81/80
CANADA	2,134	85,385	43,176	872,184	.082	MEXICO	33,879	193,581	486,920	2,708,210	1.074
GUATMAL	0	0	5,566	16,641	4.623	SALVADR	1,500	7,005	1,584	8,511	5.414
C RICA	0	0	25	208	.817	PANAMA	0	0	83	332	1.148
BAHAMAS	0	0	719	2,605	*	JAMAICA	0	0	20	255	.589
HAITI	144,888	482,094	2,021,872	8,323,958	1.015	DOM REP	154,894	898,590	1,725,743	7,837,138	.921
LW WI I	0	0	30	746	*	BARBADO	0	0	1,618	3,033	9.419
N ANTIL	0	0	350	5,231	*	F W IND	360	730	360	730	*
COLUMB	26,740	344,367	294,841	4,893,345	1.178	GUYANA	0	0	1,468	591	.537
F GUIAN	0	0	30	1,455	*	ECUADOR	327	3,524	1,846	18,218	1.789
PERU	380	583	1,220	12,242	.387	BOLIVIA	62	1,048	1,528	15,594	1.381
CHILE	0	0	848	16,558	4.553	BRAZIL	55,337	432,920	706,703	6,013,218	1.248
URUGUAY	8,551	108,521	183,021	1,880,100	.831	ARGENT	0	0	5,101	84,825	.397
SWEDEN	384	3,999	2,854	17,093	.948	FINLAND	120	5,573	4,334	54,214	1.195
DENMARK	2,088	8,947	3,849	29,930	.312	U KING	1,811	11,035	42,144	355,609	.745
IRELAND	0	0	1,276	15,658	27.374	NETHLDS	0	0	4,151	16,726	1.891
BELGIUM	0	0	2,082	9,821	1.469	FRANCE	12,050	337,966	133,002	3,685,359	1.024
W GERM	707	44,494	18,878	815,242	1.919	E GERM	0	0	48	808	.055
AUSTRIA	0	0	191	7,198	6.454	CZECHO	0	0	38	1,565	*
HUNGARY	2,854	78,220	18,809	300,358	2.576	SWITZLD	98	2,433	7,454	82,567	.769
POLAND	0	0	8,842	122,952	1.574	SPAIN	30,047	321,310	391,208	3,349,339	1.492
PORTUGL	0	0	283	4,068	4.205	ITALY	335,093	3,397,051	2,621,364	41,033,900	1.027
YUGOSLV	0	0	96	830	.087	GREECE	1,372	9,481	4,904	35,018	1.179
TURKEY	1,083	17,831	3,062	40,188	25.466	CYPRUS	0	0	461	4,605	.508
SYRIA	498	4,066	496	4,888	.283	LEBANON	7,212	46,331	288,502	1,631,840	.898
IRAN	0	0	42	556	1.154	ISRAEL	0	0	2,025	2,771	.171
JORDAN	0	0	25	333	*	S ARAB	0	0	4,000	5,000	*
YEMEN A	0	0	3,700	14,500	*	AFGHAN	0	0	2,970	9,374	.863
INDIA	32,840	144,186	864,359	2,862,740	1.004	PAKISTN	0	0	1,714	4,901	.786
NEPAL	0	0	960	1,128	.335	BNGLDSH	0	0	4,316	5,000	1.350
SRI LKA	0	0	4,184	2,348	.319	THAILND	712	3,819	34,547	94,272	.871
LAOS	0	0	2,232	3,348	.214	MALAYSA	988	3,044	4,905	13,106	12.364
SINGAPR	1,202	5,844	16,372	34,119	6.305	INDNSIA	500	395	10,398	20,871	40.137
PHIL R	302,457	692,617	2,307,054	4,248,963	1.231	MACAO	81,298	102,662	480,808	1,002,304	1.270
SO ASIA	0	0	600	1,692	*	CHINA P	795,864	1,593,421	8,480,783	17,425,527	6.852
KOR REP	1,109,340	4,042,906	17,344,669	71,211,543	1.183	HG KONG	2,781,356	5,405,043	32,540,280	87,588,152	.965
CHINA T	8,003,001	14,520,725	96,035,740	183,112,121	1.196	JAPAN	180,922	424,434	1,610,313	5,302,452	1.650
AUSTRAL	0	0	363	13,101	1.301	N ZEAL	0	0	1,591	8,659	1.614
O PAC I	0	0	228	1,580	1.934	MOROC	34,049	85,385	490,398	1,372,649	.804
EGYPT	0	0	7,353	81,824	.150	CAMROON	0	0	140	298	*
IVY CST	0	0	74	800	*	GHANA	0	0	68	676	*
KENYA	1,725	11,704	6,377	34,730	1.351	MALAGAS	0	0	708	409	*
REP SAF	84	9,796	837	37,371	.476						

	MONTH OF DEC		- - JANUARY TO DATE - -		
	QUANTITY	VALUE ($)	QUANTITY	VALUE ($)	VALUE 81/80
TOTAL	14,729,368	34,381,118	170,224,712	408,230,284	1.159

SUMMARY OF ECONOMIC ACTIVITY
IN INDUSTRIES ASSISTED
BY DEPARTMENT OF COMMERCE INDUSTRY PROGRAM

	Industry	Value of Shipments (Million $)	Value Added (Million $)	Total Employment (000)	Number of Firms	Imports as % of Total Consumption	Compound Annual Rate of Change: Value of Imports	Compound Annual Rate of Change: Total Employment	Major Producing States
1.	Footwear Non-Rubber	683	406	22	192	50.2	26.0	(1.3)	PA, MI, MA, TN
2.	Luggage	744	364	16	298	28	37.0	(1.2)	New Eng; Mid-Atlantic; CO
3.	Leather Goods	2,017	532	18.5	465	11.5	18.1	(3.3)	MA WI NY NJ PA CA
4.	Steel	39,396	14,059	429	1,193	16.6	10.0	(1.0)	East; North Central
5.	Textile Machinery	1,190	675	26	638	46.9	13.3	(2.2)	Southeast & Northeast
6.	Costume Jewelry	955	550	26.7	847	15.4	45.0	(2.6)	RI NY MA NJ CT CA
7.	Consumer Electroncis	7,847	3,256	84	581	47.0	18.4	4.0	IL CA PA VA
8.	Stainless Steel Flatware	560	305	9.1	258	23.5	19.7	(1.0)	MA CT NY IL
9.	Red Cedar Shakes & Shingles	319	137	6	565	48.0	46.9	(14.0)	OR WA CA
10.	Pipe Fittings	8,125	4,830	114	902	8.6	14.0	2.2	OH IL PA TX
11.	Apparel/Textile	87,379	36,836	1,616	18,064	10.8	26.5	(1.3)	Southeastern; Mid-Atlantic
12.	Paper Machinery	27,300	12,300	203	646	11.4	15.6	.8	GA AL LO WI OR ME
13.	Vitreous China	187	152	7.3	28	50.1	19.0	6.2	PA WV NY NJ OH CA
14.	Earthenware	106	78	4.8	23	62.4	18.2	(5)	PA WV NY NJ OH CA
15.	Work Gloves	377	150.8	14	110	31.5	21.5	(39)	MI MN WI

SUMMARY OF ECONOMIC ACTIVITY
IN INDUSTRIES ASSISTED
BY DEPARTMENT OF COMMERCE INDUSTRY PROGRAM

Industry	Value of Shipments (Million $)	Value Added (Million $)	Total Employment (000)	Number of Firms	Imports as % of Total Consumption	Compound Annual Rate of Change		Major Producing States
						Value of Imports	Total Employment	
16. Industrial Fasteners	4,200	2,496	68	500	50	15.0	(7)	OH IL PA TX
17. Handmade Glass	95	54	45.9	325	26.4	25	(29)	OH PA WS SC
18. Mushrooms Canned/Fresh	358.8	178.7	8	527	40	21	(22)	OH CA HI WA PA (50%)
19. Handbags	648	324	18	186	41	24.6	(4)	NYC
TOTALS	158,445	77,684	2,737	26,348				

Sources 1977 Census of Manufacturers, Department of the Census; Bureau of Labor Statistics

Financial Assistance Authorized for Certified Firms Under the Trade Act of 1974

Industry	Calendar Years 1975-1981 ($000) 1975	1976	1977	1978	1979	1980	1981	Cumulative Total No. of Firms	Financial Assistance Authorized ($000)
Apparel	--	7,050	3,935	18,281	32,102	29,403	10,115	97	100,886
Footwear	1,000	2,330	6,967	25,479	24,800	10,350	3,700	63	74,626
Textiles	--	--	4,455	2,500	9,296	3,517	6,335	18	26,103
Handbags	--	930	2,512	9,062	6,640	530	600	30	20,274
Machinery & Equipment	1,000	1,000	--	4,620	5,300	4,905	2,550	14	19,375
Jewelry & Watches	--	--	4,600	1,597	5,050	1,000	4,124	11	16,371
Foods & Beverages	--	--	550	3,200	7,500	1,300	1,350	9	13,900
Electronic Components	--	600	--	1,735	--	2,422	6,700	11	11,457
Metal Products	--	--	--	1,000	800	2,000	5,435	9	9,235
Toys & Sporting Goods	--	--	--	250	1,150	2,143	3,450	9	6,993
Leather	--	--	--	--	4,750	--	--	2	4,750
Electric Appliances	--	--	--	--	2,700	1,700	--	3	4,400
Housewares	--	--	275	--	1,460	375	1,395	6	3,505
Marble & Granite	1,500	1,690	--	--	--	--	--	3	3,190
Gloves, Belts & Zippers	--	750	--	1,425	--	384	--	4	2,559
Furniture	--	--	--	--	800	--	1,600	2	2,400
Umbrellas	--	--	--	950	414	--	--	2	1,364
Chemicals	--	--	--	--	--	--	1,000	1	1,000
Musical Instruments	--	--	--	--	--	1,000	--	1	1,000
Stoves & Heaters	--	--	--	--	1,000	--	--	1	1,000
Photo Albums	--	--	500	--	400	--	--	2	900
Wood Products	--	--	--	--	--	--	550	1	550
Eyeglass Frames	--	--	473	--	--	--	--	1	473
Animal Tags	--	--	--	--	--	410	--	1	410
Medical Supplies	--	--	--	--	--	400	--	1	400
TOTAL	3,500	14,350	24,267	70,099	104,162	61,839	48,904	302	327,121

SOURCE: Office of Trade Adjustment Assistance, International Trade Administration, U.S. Department of Commerce.

MID-ATLANTIC TAAC

LIST OF FIRMS

Pennsylvania

Microsonic Trading Corporation
529 Spring Garden Street
Philadelphia, PA

Atwater, Inc.
625 Main Street
Plymouth, PA

Belmont Manufacturing
211 North 13th Street
Philadelphia, PA

Delaware Alloy Forge
2300 Tioga Avenue
Philadelphia, PA

Oxford Corporation
135 North Fifth Street
Oxford, PA

Wallace Leisure Products
31st and Jefferson Streets
Philadelphia, PA

Oxford Royal
Route 79 G
Kelton, PA

A. E. Nelson
34 Baltimore Avenue
Wilkes Barre, PA

Wyoming Valley
237 Old River Road
Wilkes Barre, PA

Print Fashions, Inc.
Ninth and Linden Streets
Bethlehem, PA

Family Garment Company
324 East Locust Street
Scranton, PA 18505

Nachman Industries
(D/B/A Flash Trimming Co.)
801 Arch Street
Philadelphia, PA

London Knitting Company
3799 Jasper Street
Philadelphia, PA

Wexler Knitting Mills
1309 Noble Street
Philadelphia, PA

Lesco Sportswear Company
422 Park Avenue
Williamsport, PA

Cawley Stove Company
27 North Washington Street
Boyertown, PA

Charter Apparel, Ltd.
361 Gordon Street
Allentown, PA

Vinnie Blouse Company
Rt. 512, Box 265
Wind Gap, PA

Gaines Company
Box 35
Long Run Road
Gaines, PA

TACTEC Systems, Inc.
Meadow Lands, PA

Willits Shoe Company
North Second Street
P.O. Box 403
Nalifax, PA

Goodimade Manufacturing Company
1010 Race Street
Philadelphia, PA

Atlas Company
17 East Queen Street
Ephrata, PA

Michelfelder's Lunch Meats
5419 North Mascher Street
Philadelphia, PA

Watson McDaniel
975 Madison Avenue
Valley Forge Corp. Center
Norristown, Pa

Allentown Manufacturing
315 Linden Street
Allentown, PA

Virginia

Blue Bird Knitting Mills
5200 City Line Avenue
Hampton, VA

Ideal Fishing Tackle Company
20th and Franklin Streets
Richmond, VA

Harwood Company
P.O. Box 1068
Marion, VA

Fass Brothers, Inc.
P.O. Box 3552
Hampton, VA

Imperial Reading
1920 Atherholt Road
Lynchburg, VA

Maryland

Kessler Shoe Manufacturing Company
191 Schaeffer Avenue
Westminster, MD

Hi-Style Industries
4301 Kenshaw Avenue
Baltimore, MD

West Virginia

Crescent Glass Company
Sixth and Yankee Street
Wellsburg, WV

COMPANY	SIC
A.T.P. Processors Lts. 1 Van Houten Street Paterson, NJ 07505	2262 Textile Printing
Acme Leather Sptswr.,Inc. 335 South Park Street Elizabeth, NJ 07206	2386 Leather & Cloth Coats
Al Acquaire Shirt Co. 114 Straight St. Paterson, NJ 07501	2321 Men's Shirts
B&B Coat Corp. 51 Madison St. Paterson, NJ 07501	2337 Ladies Coats
Bomar Crystal Co. 201 Blackford Ave. Middlesex, NJ 08846	3679 Quartz Crystals
Brighton-Best Socket Screw Mfg. Co. Green St. Teterboro, NJ 07608	3542 Socket Cap & Square Set Screws
Car-Flite Mfg.Co.Inc. 6 Willow St. Moonachie, NJ 07074	3694 Auto Parts
Chronar Corp. P.O. Box 177 Princeton, NJ 08540	3873 Electronic Components
Cooper Sportswear Manufacturing Co.Inc. 720 Frelinghuysen Ave. Newark, NJ 07114	2329 M/W outerwear
Deer Park Baking Co. South Egg Harbor Rd. Hammonton, NJ 08037	2052 Butter Cookies
Irving J. Dorfman Co. 6612 Broadway West New York, NJ 07093	2397 Schiffli Machine Embroideries
Eastern Laminating 75 Main Ave. Elmwood Park, NJ 07407	2231 Lamination of Textiles
Fabrite Laminating Corp. 70 Passaic St. Wood-Ridge, NJ 07075	2295;2269;3079 Prod.of Laminated Fabrics
Federal Casters Corp. 785 Harrison Ave. Harrison, NJ 07029	3429 Casters,Wheels & Steel Products

COMPANY	SIC
Hardware & Industrial Tool Co. Inc. 2607 River Road Cinnaminson, NJ 08077	3429 Garden Tools, Snow Shovels
Hartford Corp. 99 Jersey Ave., P.O. Box 85 New Brunswick, NJ 08903	30x79 Plastic Films
Janet Knitting Mills 155 Van Wagenen Ave. Jersey City, NJ 07306	2253 Knit Outerwear
Jerome Industries Corp. 136 Market St. Kenilworth, NJ 07033	3612 Battery Chargers & Trans.
Kem Mfg. Co. Inc. River Rd. & Maple Ave. Fair Lawn, NJ 07410	3714 Automobile Parts
John C. Kohaut, Inc. 15 Meeker St. West Orange, NJ 07052	2499 Wood Products
Korelle Industries 36 Mileed Way Avenel, NJ 07001	
Lambertville Ceramic & Mfg. Co. Inc. P.O. Box 128 245 N. Main St. Lambertville, NJ 08530	3269 Ceramic Wear Parts
Melissa & Me, Inc. Bldg.454 Raritan Center Edison, NJ 08817	2643 Polyethylene Film Bags
Meta Frame Corp. 41 Slater Drive Elmwood Park, NJ 07407	3231 Aquarium Supplies
Middletown Leather Co.Inc. 200 Valentine St. P.O. Box 607 Hackettstown, NJ 07840	3111 Leather
N & R Fashions 13½ Van Houten St. Clifton, NJ 07505	2337 Women's Sportswear
Novel Knit, Inc. 791 Paulison Ave. Clifton, NJ 07011	2253 Knit Outer-wear

COMPANY	SIC	COMPANY	SIC
Rainbow Dyeing & Finishing Corp. 20-21 Wagarow Rd. Fair Lawn, NJ 07481	2269 Dyeing & Finishing Textile	United Speaker Systems, Inc. 101 No. Park St. East Orange, NJ 07017	3651 Produces & Assembles Speakers
Ronson Corp. 1 Ronson Rd. Bridgewater, NJ 08807	3634 Cig.Lighters & Appliances	Victory Optical Mfg.Co. 1 Victory Plaza Newark, NJ 07102	3851 Eyeglass Frames
Royal Art Mfg. Corp. 160 Passaic Ave. Kearny, NJ 07032	2599 Furniture & Fixtures	Voltronics Corp. West Street East Hanover, NJ 07936	3675 Precision Piston Trimmer Capacitor
Sally Gee 395 Broad Ave. Ridgefield, NJ 07657	2259 Knitwear	Washington Knitting Mills 50 Harrison St. Hoboken, NJ 07030	2341 Women's undergarments
Sobel Brothers, Inc. 400 Barclay St. Perth Amboy, NJ 08862	3961 Costume Jewelry;pearls	Wire Cloth Mfgr.,Inc. 133 Kings Road Madison, NJ 07940	3496 Wire Cloth Fabrication
Star Coat Mfg.Co.Inc. 251 First St. Hoboken, NJ 07030	2337 Ladies coats, blouses,raincoats	J.O. Wos Knitting Mills 237 Main St. Cliffside Park, NJ 07010	2253 Knit Sweaters & Dresses
Torsion Balance Co. 125 Ellsworth St. Clifton, NJ 07012	3576 Scales	York Luggage Corp. 204 North Union St. Lambertville, NJ 08530	3161 Mfg.of Luggage
Triumph Knitting Machine Service,Inc. 18-20 Di Carolis Court Hackensack, NJ 07601	2258 Knitted Fabric		

METRO NEW YORK TAAC

LIST OF FIRMS

Salton, Inc.
1260 Zerega Avenue
Bronx, NY 10462
Kitchen Housewares

Musical Instruments Company
of America
170 Eileen Way
Syosset, NY 11791
Musical Instruments

Colorguard Corporation
One Johnson Drive
Raritan, NJ 08869
Vinyl Clad Chain Link Fences

Knit Capers, Inc.
93-37 150th Street
Jamaica, NY 11433
Ladies' Knitwear

Brooklyn Overall Co., Inc.
112 Commercial Street
Freeport, NY 11520
Ladies' & Young Men's Jeans &
Overalls

Tivot Metalwork, Inc.
1000 Alabama Ave.
Brooklyn, NY 11207
Metal Stamping

Multivox
370 Motor Parkway
Hautpauge, NY 11787
Loudspeakers & Musical Instruments

Dependable Knitwear
87-46 123rd Street
Richmond Hill, NY 11418
Children's Knitwear

Dame Belt & Bags
636 11th Avenue
New York, NY 10036
Handbags & Belts

Milt Posner Fur Company
85 Tenth Avenue
New York, NY 10011
Fake Fur Coats

A. Ludwig & Co., Inc.
133 Middleton Street
Brooklyn, NY 11206
Metal Stamping

Bobby Ellen, Inc.
520 Eighth Avenue
New York, NY 10018
Fake Fur Coats

Nelson Brothers
924 Bergen Street
Brooklyn, NY 11238
Metal Stamping

Division Garment Company, Inc.
512 Seventh Avenue
New York, NY 10018
Ladies' Coats, Suits, & Sportswear

Kelly Slax, Inc.
1384 Broadway
New York, NY 10018
Ladies' Pants

Novasac Sales Company, Inc.
416 West 13th Street
New York, NY 10014
Handbags

Corporate Knitting, Inc.
345 Eldert Street
Brooklyn, NY 11227
Ladies' Knitwear

Bowcar Manufacturing Corporation
112 West 34th Street
New York, NY 10001
Children's Wear

North Shore Sportswear
Dickson Street and the Place
Glencove, NY 11542
Ladies' Leather Coats

Braetan Juniors, Inc.
512 Seventh Avenue
New York, NY 10018
Ladies' Coats

John Karl
209 West 38th Street
New York, NY 10018
Men & Women Sportswear

Claude Clemente, Ltd.
56-02 31st Avenue
Woodside, NY 11377
Jeans

Paddy Lee, Inc.
275 Seventh Avenue
New York, NY 10001
Women's Sportswear

Sue Brett, Inc.
1400 Broadway
New York, NY 10018
Women's Sportswear

Olsen Diesel Engine Corporation
60 South Montgomery Avenue
Bayshore, NY 11706
Diesel Engines

Top Look Leather Fashions
555 Eighth Avenue
New York, NY 10018

Tom Brown Shoe Sales, Inc.
80 Mal Drive
Lindenhurst, NY 11737
Women's Shoes

Felsco, Inc.
116 East 16th Street
New York, NY
Bra Straps

Finesse La Model AB Corporation
Ten East 33rd Street
New York, NY
Handbags

Hercules Plastic Corporation
126-56 Northern Blvd.
Flushing, NY
Plastics

Cable Casting Co., Inc,
270 West 39th Street
New York, NY
Metal Castings

Human Form Hanger and Display, Inc.
6101 16th Avenue
Brooklyn, NY
Displays

Cort Industries Corporation
304 Hudson Street
New York, NY 10013
Slide Fasteners

Tarra Hall Clothes, Inc.
Ten West 20 Street
New York, NY 10011
Men's and Ladies' Clothing

Regal & Wade Manufacturing Company
53-23 Nurge Avenue
Maspeth, NY 11378
Photo Albums

Morrisville Company
111 West 40th Street, Suite 2403
New York, NY 10018
Textiles & Knit Fabrics

Carter Leather Goods
330 Fifth Avenue
New York, NY 10003
Small Leather Goods

A & B Sportswear
564 Broadway
New York, NY 10012
Children's Pants & Shorts

Irwill Knitwear Corporation
1407 Broadway
New York, NY 10018
Ladies' Knitwear

Helbros Watches, Inc.
Two Park Avenue
New York, NY 10016
Watches

Abe Levine Knitting Mills
1329 Willoughby Avenue
Brooklyn, NY 11237
Ladies' Knitwear

Hygrade Sportswear Company, Inc.
85 Fifth Avenue
New York, NY 10003
Men's Clothing

Richtone, Ltd.
498 Seventh Avenue
New York, NY 10018
Women's Sportswear

Rhodes Electronics Company
104-25 195th Street
Hollis, NY 11412
Electronics

Valmont, Inc.
171 Madison Avenue
New York, NY 10016

Vance Novelties
12 West 21st Street
New York, NY 10010

W & L Knitting Mills, Inc.
63-49 60th Place
Brooklyn, NY 11227
Knitwear

Trimond Manufacturing Company
224 West 30th Street
New York, NY
Knitwear

Autonumerics, Inc.
120 Plant Avenue
Hautpauge, NY 11787
Lathe Machines

Peerless Sew-Sales, Inc.
262 Mott Street
New York, NY 10012
Sewing Machines

Great Atlantic Shellfish Co., Inc.
50 Emjay Avenue
Brentwood, NY 11707
Fish Processors

Ambico, Inc.
101 Horton Avenue
Lynbrook, NY 11563
Guitar & Camera Straps

William Atkin, Inc.
350 Fifth Avenue
New York, NY 10001
Apparel

Cecile Industry, Inc.
10 Ranick Drive S.
Amityville, NY 11701
Stuffed Toys

Shapiro Wine Co., Ltd.
126 Rivington Street
New York, NY 10002
Wine

Sleepwear, Inc.
One West 34th Street
New York, NY 10001
Pajamas

Lougan Leather Corporation
247 West 38th Street
New York, NY 10018
Leather Goods

R & N Knitted Headwear, Inc.
544 Park Avenue
Brooklyn, NY 11205
Knitwear

Schooner Knitwear Corporation
412 Broadway
New York, NY 10013
Knitwear

Prive Sportswear, Inc.
499 Seventh Avenue
New York, NY 10018
Brassieres

Jameco Metal Products, Inc.
94-34 158th Street
Jamaica, NY 11433
Metal Products

Tiffany Plastics
403 Concord Avenue
Bronx, NY 10454
Novelties & Toys

Trinora Coporation
255 West 36th Street
New York, NY 10018
Apparel

Accurate Casting Company, Inc.
5-20 46th Road
Long Island City, NY
Trophies

Ay-Won Belt Manufacturing Corporation
41 East 11th Street
New York, NY
Belts

Dawson Industries
1350 Broadway
New York, NY
Lingerie Actionwear

Berger Brothers Leather Goods Co., Inc.
325 Fifth Avenue
New York, NY
Handbags

Accessories By Pearl, Inc.
330 Fifth Avenue
New York, NY
Belts

Carnivale Handbags
540 Park Avenue
Brooklyn, NY
Handbags

Bi-Flex International, Inc.
183 Madison Avenue
New York, NY
Bras & Girdles

Scalies Stitching, Inc.
735 Lorimer Street
Brooklyn, NY
Shoes

Davina Lingerie Corporation
630 Broadway
New York, NY
Lingerie

Indian Footwear
431 Southern Blvd.
Bronx, NY
Shoes

Fox Shoe Company, Inc.
826 Broadway
New York, NY
Shoes

Levis Purses
350 Fifth Avenue
New York, NY
Handbags

N. Erlanger Blumgart & Co., Inc.
1450 Broadway
New York, NY
Textiles

Pensato, Inc.
47 West 34th Street
New York, NY
Shoes

Char-Len Handbag
732 Howard Avenue
New Haven, CT
Handbags

F & T Jewelry
220 West 19th Street
New York, NY
Jewelry

Cardona & Baker
214 Duffield Street
Brooklyn, NY
Shoes

Alert Shoes Corporation
524 Broadway
New York, NY
Shoes

Flower Handbag Manufacturing Corporation
25 Hall Street
Brooklyn, NY
Handbags

Atlantic Fabricators, Inc.
12 Hinsdale Street
Brooklyn, NY
Shoes

Dippy Knits, Inc.
1650 New Highway
Farmingdale, NY 11735
Knitwear

Herbert Products, Inc.
180 Linden Avenue
P.O. Box 384
Westbury, NY 11590
Driers

Martin Greenfield Clothes, Ltd.
239 Varet Street
Brooklyn, NY 11206
Men's Clothes

Little World, Inc.
112 West 34th Street
New York, NY 10001
Children's Knitwear

Dunleigh-Tuxton
One East 33rd Street
New York, NY 10016
Men's Neckwear

Jade Handbag
31 West 27th Street
New York, NY 10001
Ladies' Handbags

Bell Handbag
27 West 20th Street
New York, NY 10011
Ladies' Handbags

G & S Handbag Co., Inc.
44 West 28th Street
New York, NY 10001
Ladies' Handbags

The Model Bride, Inc.
318 West 39th Street
New York, NY 10018
Bridal & Religious Accessories

A. P. C. Amplaco Corporation
136 West 21st Street
New York, NY 10011
Handbags

Wade Knitwear, Inc.
652 Grandview Avenue
Ridgewood, NY 11227
Sweaters

Top Form Mills, Inc.
16 East 34th Street
New York, NY Lingerie

Willow Veal Corporation
114 North Sixth Street
Brooklyn, NY
Meat

Best Craft Handbag Corporation
One East 33rd Street
New York, NY
Handbags

Peerless Umbrella Corporation
Six West 32nd Street
New York, NY
Umbrella

Lou Rand Handbag, Inc.
162 Madison Avenue
New York, NY
Handbag

Kadin Brothers, Inc.
Ten West 33rd Street
New York, NY
Handbag

J. T. Koltes Enterprises, Inc.
780 East 135 Street
Bronx, NY
Ladies' Shoes

Joseph Hirsh Sportswear
70 Washington Street
Brooklyn, NY
Men's Outerwear

[illegible]ney Bag Company, Inc.
[illegible] Rider Avenue
Bronx, NY
Handbags

Jolie Handbag, Inc.
416 West 13 Street
New York, NY
Handbags

Artsteak Company, Inc.
88 Street & 73rd Avenue
Glendale, NY
Displays

Delizza & Elster, Inc.
840 Fifth Avenue
Brooklyn, NY
Jewelry

Danville Loungewear, Inc.
38 East 32nd Street
New York, NY
Lingerie & Loungwear

Footlight Parade
180 Varick Street
New York, NY
Ladies Shoes

Steffi Fashions, Inc.
500 Seventh Avenue
New York, NY 10018
Ladies' Clothing

Stoney Brook Fashions
1384 Broadway
New York, NY 10018
Ladies' Sportswear

Mel Jay Leather
247 West 38th Street
New York, NY 10018
Leather Coats

Sunrise Knitwear Company, Inc.
1407 Broadway
New York, NY 10018
Ladies' Knitwear

Brookhaven Textiles, Inc.
1412 Broadway
New York, NY 10018
Textiles

Fancy Industries, Inc.
Ten West 33rd Street
New York, NY
Handbags

Certified Creations, Inc.
Five Varick Street
New York, NY 10013
Slippers

Fox Knapp Manufacturing Company
One West 34th Street
New York, NY 10001
Men's Outerwear

Tensor Corporation
333 Stanley Avenue
Brooklyn, NY 11207
Lamps

Cavalier Clothes
90-09 Van Wyck Expressway
Jamaica, NY 11435
Men's Clothing

Gold Star Hat and Cap Company, Inc.
122 Fifth Avenue
New York, NY 10011
Headwear

FIRM NAME AND ADDRESS:	CONTACT PERSON:
Micro-Acoustics, Corp. 8 Westchester Plaza Elmsford, NY 10523	Arnold Schwartz President
Saw Mill River Industries 1051 Saw Mill River Rd. Yonkers, NY 10710	Leonard Weiss President
Self Powered Lighting 8 Westchester Plaza Elmsford, NY 10523	Mitch Nesser
Die Mesh Corp. 121 Stevens Ave. Mt. Vernon, NY 10550	Dominic Borello President
Maguire Bros. Brush Co. 4 Pearl St. Port Chester, NY 10573	Peter Iasillo
Markann Mfg. Co. 69 Warren St. New Rochelle, NY 10802	Seymor Kramer President
K & R Handbags, Inc. 10 North Cherry St. Poughkeepsie, NY 12601	Bernard Rynowecer President

Brotherhood Corp. North St. Washingtonville, NY 10992	Ann Farrell Exec. Vice President
Andmore Sportswear 21 Minisink Ave. Port Jervis, NY 12771	Phil Platania General Manager
Hudson Valley Winery Blue Point Rd. Highland, NY 12528	John Lahey General Manager
FX Systems P.O. Box 1818 Kingston, NY 12401	Ed Nutter President
Barclay Knitwear Edmond Rd. Newtown, Ct. 06471	Samuel Berger Vice President
Draper Egg 30 Elm St. Extension Dryden, NY 13053	Roy Draper President
Becker Electronics Route 145 East Durham, NY 12423	Fred Becker, Jr. President
Kubar Bearings 504 Broadway Troy, NY 12180	Earl Smith Treasurer
Utica Duxbak 815 Noyes St. Utica, NY 13502	Gilbert Jones President
Feuer Leather Gloversville, NY	Bob Ekstein Accountant
J'Mar Glove 66 E. Fulton St. Gloversville, NY 12078	Mark Schwed
Ambroson Glove 95 Arlington Ave. P.O. Box 183 Gloversville, NY 12078	Ralph Ambrosino
Spring Pond Nursery New Boston Rd. Canastota, NY 13032	Dennis Smith
Norwich Shoe Co., Inc. Norwich, NY 13815	Floyd Moon Exec. Vice President
Columbian Rope One Columbian Dr. Auburn, NY 13021	Charles Cherry
Ithaca Gun Co. 123 Lake Street Ithaca, NY 14850	Ed Roelen Vice President - Finance

Clark Greenhouses 6407 Rts. 5 & 20 West Canandiagua, NY 14424	Ken Clark President
Wayne Floral P.O. Box 6 (Welches Rd.) Newark, NY 14513	Heinz Mohr President
Opto Dynetics 100 Fernwood Ave. Rochester, NY 14621	Joseph Schwartz President
M.J. Fitzsimmons Mfg. 418 St. Paul St. Rochester, NY 14605	Jack Soloway President
Rochester Button Co. 300 State St. Rochester, NY 14614	John Spencer Vice President
MXR Innovations 740 Driving Park Ave. Rochester, NY 14613	Phil Betette General Manager
Niacet Corp. Stevens St. Lockport, NY 14094	Ray Mangold Vice President
Upson Co. Stevens St. Lockport, NY 14094	John McIntyre
Recreatives Industries 60 Depot St. Buffalo, NY 14206	Sid Wallach President
Liberty Woodcrafts 3300 Benzing Rd. Orchard Pk, NY 14127	Russell Walsh President
Macler Industries Howard St. Friendship, NY 14739	Paul Macler President
Heritage Cutlery P.O. Box 476 Refinery Rd. Bolivar, NY 14715	Charles Fox President

Total Number of Employees - 9,381

New England Businesses Supporting Trade Adjustment Assistance for Firms

1. American Pillow
Lowell, MA

65 employees

Contact: Daniel O'Leary
President

2. Atlantic Brands
Boston, MA

12 employees

Contact: Abrahan Cohen
President

3. Bridgeport Silverware
Bridgeport, CT

20 employees

Contact: Peter Renkert
Vice President

4. Bristol Brass Corporation
Bristol, CT

351 employees

Contact: William Freeborn
Executive Vice President

5. Carr Leather Company
Lynn, MA

85 employees

Contact: Donald Freedson
Executive Vice President

6. Cornwall Industries, Inc.
South Paris, ME

230 employees

Contact: Bo Jernigan
President

7. Eastland Woolen Mill, Inc.
Corinna, ME

450 employees

Contact: Max Striar
President

8. L. B. Evans
Wakefield, MA

237 employees

Contact: Sheldon Jacobson
President

9. Fall River Fireplace
Fall River, MA

75 employees

Contact: John Enos
Vice President

10. George Fuller & Son Company
Pawtucket, RI

95 employees

Contact: Paul Mahoney
Controller

11. Grace Shoe Mfg. Co., Inc.
Lowell, MA

330 employees

Contact: Richard Rosengard
Treasurer

12. Haarmann Steel Corporation
Chicopee, MA

85 employees

Contact: Robert Ryan
Treasurer

13. Hawthorne Sportswear
Worcester, MA

40 employees

Contact: Edward Salem
President

14. Hayward-Schuster Woolen Mill
East Douglas, MA

425 employees

Contact: Winfield Schuster
President

15. International Navigation Corp.
Woburn, MA

50 employees

Contact: Susan McColmb
Special Project Officer

16. Johnson Steel & Wire Company
Worcester, MA

400 employees

Contact: George Walker
President

17. Knapp King Size Corporation
Brockton, MA

2,200 employees

Contact: Robert Grady
Executive Vice President

18. Laconia Shoe Company, Inc.
Laconia, NH

300 employees

Contact: Robert Selig
Chairman

19. Lockwood Products, Inc.
Leominster, MA

66 employees

Contact: Douglas Detweiler
President

20. Lorraine Handbags, Inc.
Boston, MA

35 employees

Contact: Charles Pagliarulo
Treasurer

21. Lurie Sportswear
Boston, MA

110 employees

Contact: Howard Lurie
President

22. May Optical Company
Wareham, MA

50 employees

Contact: Stuart May
President

23. Mildrum Mfg. Company
East Berlin, CT

30 employees

Contact: Theodore Benson
President

24. Mohawk Industries, Inc.
Adams, MA

45 employees

Contact: John Notsley
Treasurer

37. York Capacitor Corporation
Winooski, VT

110 employees

Contact: Harold Dubilier
President

Case No.	Client Name	Address	Contact & Phone	Product
[illegible]5	Atlanta Umbrella	Atlanta, GA	Barney Edelkind 404/981-2400	Umbrellas
0016	Covan Industries	LaGrange, GA	Arthur VanDeventer 404/882-5586	Ball Bladders
0020	Forsyth Industries	Cumming, GA	J. C. Harrington 404/688-3501	Shirts/pants
0021	Dawson Industries	Dawson, GA	Max Angel 212/695-9215	Ladies Sportswear
0027	Donald MacMillan & Sons	Macon, GA	Kenneth MacMillan 912/745-4725	Tire Recapping Equipment
0042	Wikit, Inc.	LaGrange, GA	L. Duncan Allen 404/882-8101	Wiping Towels
0063	Earth Stove East	Atlanta, GA	Robert Chubb 404/964-0480	Wood Stoves
0066	Kelly Slax	Athens, GA	Stewart Kagel 404/549-6574	Pants
1007	Maple Tree, Inc.	Maplesville, AL	Ray Kliegman 212/354-5190	Blouses
1[illegible]2	Toll Gate Garment	Hamilton, AL	Lem Moore 205/921-3163	Shirts
1[illegible]33	Southeastern Specialty	Anniston, AL	David Copeland 205/237-6641	Gray Iron Castings

Case No.	Client Name	Address	Contact & Phone No.	Product
2002	Time Saver Tackle	Opa Locka, FL	Don Bauman 305/685-1323	Fishing Tackle
2003	Pinellas Seafood	St. Petersburg, FL	Tom Cordy 305/743-2271	Processed Seafood
2005	Aly Handbag	Hialeah Gardens, FL	Alberto Llodra 305/822-7411	Handbags
2007	Joy Footwear	Hialeah, FL	Burt Lopez 305/885-9941	Athletic Shoes
2014	Highlands Leather Co.	Sebring FL	J. R. Travers 813/655-1515	Leather Shoe Lining
2019	Steridyne Corporation	Riviera Beach, FL	George Poncy, Jr. 305/844-3486	Disposable Thermometer Covers
2023	Injection Footwear	Miami, FL	Alberto Barrocas 305/836-5180	Athletic Shoes
2030	Morgan Yacht	Largo, FL	Adrian Babcock 813/544-6681	Yachts
2031	Beta Handbags	Hialeah, FL	Harvey Judkowitz 305/887-6502	Handbags
2033	Savoy Electronics	Ft. Lauderdale, FL	Robert Young 305/563-1333	Crystals
2037	Miami Footwear	Miami, FL	Joel Robin 305/633-0151	Shoes
3264	Finney Manufacturing Co.	Clinton, KY	Morris Finneburgh, Sr. 216/232-6161	TV Electronics
4020	Harper Industries	Union, MS	Tom Friedland 212/971-9200	Shirts
5001	Crewco, Inc.	Cornelius, NC	Ron Batcho 704/892-1237	Knit Shirts
5008	Keane Monroe	Monroe, NC	Jim Keane 704/2899-5581	Door Openers
5011	Washington Mills	Winston-Salem, NC	Bob Vaughn 919/765-9540	Knit Tops
5035	Vaughan's Blue Ridge	Pineola, NC	Debbie Vaughan 704/733-4323	Cut Flowers
5050	Rocky Mount Mills	Rocky Mt., NC	Tom Battle 919/442-1145	Woven Fabric
5090	American Wicker	Boone, NC	Sonja Bennett 704/963-4345	Wicker Furniture
6045	Ehrhardt Manufacturing	Ehrhardt, SC	William Balish 803/267-4125	Women's Dresses
7003	Leather Classics	LaFollett, TN	George Messing 615/562-9461	Leather Apparel
7016	Peden Wood Products	S. Pittsburg, TN	Harold Peden 615/837-6302	Turned Wood
7037	Tennessee Handbags	Dandridge, TN	Frank Hodge 615/397-3112	Handbags
7040	Doyle Shirt	Doyle, TN	Homer Messenger 615/657-2281	Shirts

WESTERN TAAC

CALIFORNIA

California Debs Inc.
2660 S.Hill St.
Los Angeles, California 90007

(213) 232-8191
Walter Gibson-Seymour Fabric
Shoes

Jack Industries
709 S. Palm Avenue
Alhambra, California 90803

(213) 281-3945
Rene Albrecht
Bungee Cords

Tinkerton Foundreis
P.O. Box 506
Lodi, California 95240

(209) 368-2774
Jim Tinkerton
Cast Iron

Compatible
664 S. Anderson
Los Angeles, California 90023

(213) 268-3123
William Young
Shoes

Caprican Clothing
850 S. Broadway
Los Angeles, California 90014

(213) 627-5565
D'Ette Payne
Women's Clothing

Altech Corporation
1515 S. Manchester
Anaheim, California 92803

(714) 774-2900
Bill Fowler
HiFi Equipment

Admaster Corporation
416 Junipero Serra Drive
San Gabriel, California 91776

(213) 285-1121
Jack Clary
Calculators & Cash Registers

Messinger Inc.
15004 Oxnard Street
Van Nuys, California 94111

(213) 997-8495
Elliot Messenger
Jewelry

Sign of the Times
1050 Stanford Avenue
Los Angeles, California 90021

(213) 687-4000
Bernie Corbin
Handbags

CEI
880 Maude Avenue
Mountainview, California 94043

(415) 969-1910
Alan Jensen
Video Broadcast Cameras

Silton Bros. Inc.
3535 S. Broadway
Los Angeles, California 90007

(213) 233-7151
Mr. R. Mc Lean
Apparel

Panama Glove Co. Inc.
1911 4th Avenue
Los Angeles, California 90018

(213) 737-8420
John Duncan
Work Gloves

Henry's Fashions
4232 Whitter Blvd.
Los Angeles, California 90023

(213) 262-4143
Yshemael Garcia
Clothing Subcontractors

J.R.M. Fashions
1200 Santee St.
Los Angeles, California 90015

(213) 749-2379
John McShane
Blouse Manufacturers

Ratner Clothes
730 13th Street
San Diego, California 92103

(714) 234-0111
Abe Kassam
Menswear

Pacific Accessory Corp.
3613 W. McArthur Blvd
Santa Ana, California 92704

(714) 957-1434
John Paterson, Sr.
Audio Stereo Components

Smart Modes
901 S. Broadway
Los Angeles, California 90015

(213) 680-4100
Julius Reines
Womens' Coats

Garry's Leather
2430 S. Hill St.
Los Angeles, California 90007

(213) 746-3564
Steve Matzdorf
Personnel Leather Goods

Sonal Manufacturing Company
1200 Santee Street
Los Angeles, California 90015

(213) 747-5572
Allan Rosenwald
Belts & Ties

Montessori
8655 S. Main St.
Los Angeles, California 90003

(213) 971-8223
Marie Yankee
Educational Toys

Auerback & Co.
1200 S. Grand Ave.
Los Angeles, California 90015

(213) 749-0131
Ray Auerbach
Men's Apparel

Sunweld Knitting Company
516 S. Anderson Street
Los Angeles, California 90033

(213) 263-9961
Bill Kay
Metal Fittings

Mica Corporation
10900 W. Washington Blvd.
Culver City, California

(213) 559-4223
Alan Lave
Laminates

Varmac Inc.
4201 Redwood Avenue
Los Angeles, California 90066

(213) 821-8071
George Hine
Fishing Pole Hardware

Orofino Fine Jewelry
15301 Ventura Blvd.- Plaza Level
Sherman Oaks, California 91403

(415) 366-4734
Bob McCarty
Ferros Dyecasting

Punch Press Products
1911 E.51st Street
Los Angeles, California 90058

(213) 581-7151
Ron Ryan
Metal Stamping & Forming

Crislu Corporation
141 Nevada St.
El Segundo, California 90245

(213) 322-3444
Lloyd Chrisfield
Jewelry

Kraft Systems Inc.
450 W. Calfiornia Avenue
P.O. Box 1268
Vista California 92083
(714) 231-1912
Wm. Athing
Controlling and tracking devices

Metlox Manufacturing Co.
1200 Morningside Avenue
Manhattan Beach, California 90266

(213) 545-4516
Kenneth Avery
Ceramic Dinnerware

RTR Industries Inc.
8116 Deering Avenue
Canoga Park, California 91304

(213) 883-0116
Robert Rehorst
Consumer Electronics

MNamara & Peepe Corporation
1607 5th Street
Crescent City
Del Norte, California 95531

(916) 624-2454
Gene Youngreen
Lumber

Threshold
1832 Tribute Rd.-Suite E
Sacramento, California 95815

(916) 927-5061
Nelson Pass
Sound Amplifiers

Florod Corporation
3341 W. El Secundo Blvd.
Hawthorne, California 90250

(213) 679-8201
Rod Waters
Industrial Lasers

Hollywood Needle Craft
3777 S. Main Street
Los Angeles, California 90007

(213) 233-4105
William Roen
Childrens Apparel

B&C West
350 Paul Avenue
San Francisco California 94124

(415) 952-8535
Stewart Schneck
Hydroponics

Accent Industries
4920 S. Halladay
Santa California 9705

(714) 979-0531
Ira Mallard
Macrame Hangings

Fashion Time Inc.
100 E. Adams Blvd
Los Angeles, California 90005

(213) 749-3475
Kevin Lehman
Contractor for Ladies Sportswear

Pathcom Inc.
24049 S. Frampton Avenue
Harbor City, Calfiornia 90716

(213) 325-1290
Dell Gaines
Communication Equipment

Pacific Ascente Inc.
1766 N. Helm
Fresno, California 93747

(209) 252-2887
Gene Bricker
Outdoor Down Apparel & Sleeping Bags

NEVADA

Schrader Stove Co., of Nevada Inc.
4750 Highway 50 E. #3
Carson City, Nevada 89701

(702) 882-8685
Don Vanhorn
Woodburining Stoves

ARIZONA

Optisonics
1802 W. Grant Rd.
Tucson, Arizona

(714) 324-4844
Henry Carter
Audio Visual Accessories

UTAH

Jolene Corporation
P.O. Box 1446
Provo, Utah 84601

(801) 373-3206
Don Geiss
Children's Clothing

HAWAII

Maui Divers of Hawaii Ltd.
1520 Liona Street
Honolulu, Hawaii 96814

(808) 946-7979
Clifford Slater
Jewelry

JEROME INDUSTRIES CORPORATION - KENILWORTH, NJ

I. BACKGROUND

This company was formed in 1964 and is primarily a manufacturer of wall-mounted voltage transformers for charging various electronic equipment. Other products include battery chargers for industrial application and voltage converters for use by overseas travelers. Historically, sales were made to manufacturers of electric toys, calculators, video games, appliances and battery chargers.

The company was successful in increasing sales volume reaching a peak in 1977 of $2.5 million. The succeeding two years saw a 28% drop in sales volume and a substantial loss recorded in 1979. Declines were attributed to offshore competition principally from the orient. Most large original equipment manufacturers followed this trend because of price advantages.

II. TRADE ADJUSTMENT ASSISTANCE

The New Jersey Trade Adjustment Assistance Center provided assistance to the firm in the preparation of a petition which was accepted on April 11, 1979 and after investigation, on June 6, 1979, Jerome was certified eligible to apply for assistance under the Trade Act of 1974.

The New Jersey TAAC engaged an outside consultant firm to review the company's marketing, management, and financial situations and prepare a plan and develop strategies to enable the company to compete with imported products. The marketing study resulted in recommendation to specialize in smaller "job shop" orders involving design and engineering problem solving in the development of new products by Jerome's customers. The management review recommended a number of additions to the staff to relieve the owner of certain day-to-day operating details. The financial problems were pinpointed and addressed in the review. These include inventory controls, reporting procedures, cost controls and need of working capital.

Based on the above analysis and recommendations, an acceptable business plan was developed and incorporated in the company's loan application. The application was approved under the provisions of the Trade Act of 1974 and this has provided Jerome with sufficient working capital to carry out the various recommendations of the initial study. Financial assistance could not be obtained through usual sources.

To further assist the company in its recovery, additional consulting assistance is in process to establish management controls, improve quality, revise management structure, refine cost controls and order processing.

III. EVALUATION

The initial consulting assistance was successful in identifying the company's problems and provided specific recommendations. Following its recovery plan, Jerome has improved its operating performance and improved its position. The loan enabled Jerome to carry out these recommendations and gave them the needed working capital to acquire inventory, carry accounts receivable and expand its marketing activities.

As a result of this assistance, Jerome has achieved an impressive increase in volume, 43%. One large order was achieved only because of the financial resources provided by the Trade Adjustment Assistance program. Their number of customers has increased from 183 to 208 in the last six months and employees now total 140 as compared with 102 at the time of certification.

We are hopeful that the assistance now being completed will further enhance the company's prospects for continued growth and overcome the impact of imported products.

BOMAR CRYSTAL COMPANY - MIDDLESEX, N.J.

I. BACKGROUND

Bomar Crystal Company was founded in 1963 and incorporated in 1969 as a manufacturer of quartz crystals. The company progressed from a part-time mail order business to a thriving concern reaching a sales volume of $2.9 million in 1976. The next two years reflect a substantial drop in volume attributed to the influx of finished crystal from

Japan, Hong Kong, Korea and Taiwan. This period also reflects a substantial drop in the domestic production of C-B radios, also due to imports. As a result, sales dropped more than 50% and substantial losses were recorded for the first time in the company's history. Within a three-year period, production employees dropped from 198 to 49.

Faced with these serious problems, the firm became interested in Trade Adjustment Assistance after first hearing about the program from his banker. The New Jersey Trade Adjustment Assistance Center aided the company in preparing the petition which led to the certification on May 3, 1979.

II. TRADE ADJUSTMENT ASSISTANCE

The New Jersey TAAC engaged an independent management consulting firm to review the firm's then current position and develop both short and long-term plans for stabilizing the business and returning the company to a competitive position. Studies were conducted on production methods, costs, quality, inventory control and engineering. The marketing review covered existing and potential markets, sales analysis and promotion, pricing policies and customer relations. The financial study reviewed expenses, budgeting and funding requirements to turn the business around.

As a result of these studies, it was determined that Bomar should broaden its market area into the OEM micro processor field as well as other communication markets which show the highest growth potential. To achieve this end, new equipment was needed and market/sales development had to be a major effort.

Bomar had already used to is maximum, the available short and long-term financing and, therefore, could only rely on the Trade Adjustment Assistance program to find its recovery through a direct loan. This was approved and has provided the company with the opportunity to acquire new equipment, develop a sales organization, and provide for adequate inventory to enter the new markets.

Additional consulting experience has been provided to establish a sales representative network and provide a company newsletter to keep customers and sales representatives informed on Bomar's product development. A specialist in the crystal field was also engaged to provide the company with the manufacturing know-how to produce new types of crystals used in the targeted market areas. The new production methods have enabled Bomar to manufacturer high-quality crystals in a variety of sizes.

III. EVALUATION

Without the Trade Adjustment Assistance in all likelihood further declines would have resulted accompanied by additional worker layoffs. With the consulting assistance, new markets are becoming available and manufacturing capabilities have expanded to accommodate these markets. These changes could not have taken place without the financial assistance (loan) provided under the Trade Act of 1974. When recovery plan is fully operational, Bomar is expected to increase employment to 96 workers and regain its sales growth.

WIRE CLOTH MANUFACTURERS INC. - MADISON, NJ

I. BACKGROUND

Wire Cloth Manufacturers, Inc. was founded in 1965 and operates as a fabricator of wire cloth or screen parts used in appliances and industrial processes. Most production orders were for small quantities requiring quick deliveries and to accurate specifications.

Sales peaked in 1977 at almost $450,000 but fell considerably in the following two years, due primarily to foreign competition in the fabrication of screens for smoke detectors and imports of high volume products such as extrusion screens for the plastic industry.

II. TRADE ADJUSTMENT ASSISTANCE

The New Jersey Trade Adjustment Assistance Center was instrumental in bringing the Trade Act program to the attention of the company and assisted management in the preparation of a petition which led to their certification in January, 1979.

Based on the TAAC's analysis of the company's needs, a marketing effort was deemed to be the major solution to the company's problems. An outside management consultant was engaged by TAAC to establish a manufacturers' representative sales organization to give Wire Cloth national coverage. Consultant was able to provide candidates and assist in the screening process to select the most qualified representatives. The selected representatives were provided with both written and verbal in-depth sales and motivational training to assure short-term results. A system of review was also established to monitor the representative's performance along with sales goals for each.

At a later date, an engineering study was made on the company's plant layout, methods and productivity improvements. Recommendations were made and adopted by Wire Cloth.

The company was able to finance the changes made in its operations and its cost sharing portion of the consulting assistance through regular channels and, therefore, did not require financial assistance available through the Trade Act program.

III. EVALUATION

It is difficult to measure the benefits to the company at this time because of the downturn in the economy. The new sales representatives have produced new business and as the program further develops, there should be a noticeable increase in sales volume.

The method improvements in their manufacturing process have been adopted but their impact on the cost of production has not yet been measured but certainly has led to more efficient operations.

While the labor force has not been increased, there have been no additional layoffs.

Management has used the technical assistance provided by New Jersey TAAC to reverse the downward trend and is looking forward to the benefits of this assistance in the near future.

Lorraine Handbags, Inc.
79 Essex Street
Boston, MA 02111
Charles Pagliarulo, Treasurer
(617) 423-5889

Lorraine Handbags is a small manufacturer of leather and suede handbags and accessories. Originally, its products were sold to mass-merchandisers who, in recent years, stocked an increasing number of lower-priced imports from Taiwan, Hong King and Colombia. According to the 1979 U.S. Industrial Outlook, U.S. Department of Commerce, ITA, imports of leather handbags increased by an estimated 21% from 1973 to 1978. From 1974 to 1979, Lorraine's sales, reflecting this influx of foreign-made handbags, fell by almost 75%. Profit margins evaporated and employment declined from 20 to just 6 production workers.

Analysis of the firm's operations by the TAAC project officer revealed a marketing problem and the need for assistance in that area. The consultant hired for this project confirmed the TAAC officer's feelings that the company had been competing directly with low-end imports and that a new marketing/product strategy was needed for recovery. He discovered, via field research, that Lorraine's handbags were being sold literally side-by-side the less expensive, lower quality imports in chain discount department stores. Obviously, they were not moving because they were losing out against price competition. The Lorraine product, being of somewhat better quality, was in the wrong stores and was being retailed to the wrong group of consumers.

Key recommendations centered around upgrading the retail accounts by changing distribution to include specialty stores, boutiques and "first floor" department stores, rather than mass-merchandisers. The product, also, was substantially upgraded by adding inner liners, designing for more style and fashion, extending the line to new colors, and generally including those elements which will bring a higher price.

The strategy was obviously successful because sales rose from $260,000 in 1979 to $1.5 million in 1981 and there is every indication that sales will exceed $2.0 million for 1982. Profitability has been restored and more employees are being added at regular intervals. Management of Lorraine Handbags admits that the firm would probably be out of business today if it were not for the Trade Adjustment Assistance Program.

Hayward-Schuster Woolen Mills, Inc.
Gilboa Street
East Douglas, MA 01516
Winfield A. Schuster, President
(617) 476-7411

Hayward-Schuster is one of several such mills in New England producing woolen and wool blend cloth for apparel and upholstery. A combination of factors including a heavy influx of woolen cloth imports from Italy and the United Kingdom contributed to the company's problems. According to the 1979 U.S. Industrial Outlook, U.S. Department of Commerce, ITA, the value of woolen cloth imports increased by over 132% between 1975 and 1978. It has since receded somewhat but not before damaging our domestic industry.

Hayward-Schuster reluctantly entered the Trade Adjustment Program, preferring originally to solve its own problems. After it became apparent that outside assistance was necessary, the firm qualified for the Program and requested a TAAC project officer to assist in developing a recovery plan. The firm, in attempting earlier to solve its own problems, had already accomplished a survey of operations; and thus management knew the general direction in which to proceed.

Among the findings from the survey, and which would become elements of the recovery plan, was that Hayward-Schuster had purchased a set of looms which turned out to be "lemons". These new looms, which became literally inoperative in time, had severely drained the firms financial resources. A disinterested source estimated that these looms had cost Hayward- Schuster in excess of $12,000,000 in lost production and sales alone. This element, plus foreign competition caused mounting losses and a drastic drop in the number of employees from well over 500 to near 300, at one point. This was especially damaging to the local economy as Hayward-Schuster is a key employer within its region.

The TAAC project officer worked very closely with Hayward-Schuster's managment in developing a recovery plan involving both a loan application and consulting assistance focussing on productivity, although "marketing" was also an important part. The firm sought a $3,000,000 guaranteed loan, negotiated with its factor as the lender, to purchase all new looms to replace the "lemons," and for working capital and complemented by the establishment of internal systems and controls. The loan was closed in December 1981; the first new looms have already been delivered, others are on order. Preparations are underway to provide the company with consultant expertise in computer application of internal systems.

Hayward-Schuster is grateful for the cooperation, service and close working relationship of the TAAC in providing the assistance. The company recognizes that without the help of the Trade Adjustment Program, the mill would likely have been forced to cease operations - it was inevitable.

York Capacitor Corporation
460 Weaver Street
Winooski, VT 05404
Harold Dubilier, President
(802) 655-2550

York Capacitor was a leading supplier of capacitors, devices used for the storage of electrical energy. Its main customers were flourescent lighting and air conditioner manufacturers. The market for the small flourescent lighting, or "tubular" capacitors was generally lost to the Japanese which dropped prices more than 22% between 1978 and 1980. Persons knowledgeable of the capacitor industry reasoned that Japan was attempting to capture the U.S. market for tubular capacitors with no apparent regard for breakeven or profitability. Management reasoned, therefore, that the firm's recovery depended mainly on the success of the air conditioner or "AC can" capacitor which is much less labor intensive.

With assistance from TAAC, the company submitted a business plan based on the production and marketing of a new-technology AC capacitor. It seems as though a smaller, lighter and less expensive AC capacitor had recently been developed using metallized, polypropylene film instead of paper/foil construction. Because it is not a labor-intensive product and because only "approved" U.S. manufacturers of AC capacitors (of which this firm is one of only eight in total) can supply the major markets, the risk of overseas competition is minimal. Industry anticipated that the new metallized capacitors would soon render the older ones obsolete.

The business plan involved the purchase of specialized machinery needed to produce the metallized capacitors and a financial package to support the purchase. Market development for the new capacitors was seen as almost foolproof as they would directly replace the older type in similar equipment. Also, only two of the eight "approved" AC capacitor makers are producing the new type allowing York to get an early foothold in the market before the others followed.

To support the purchase of machinery and equipment for producing the new product, York, with assistance from the TAAC project officer, submitted an application for a $240,000 direct loan. In having this loan approved by ITA, York was able to leverage an additional $110,000 from other sources.

York Capacitor is now producing the new-technology capacitors which are quickly replacing the obsolete type. The company's share of the AC can capacitor market is now increasing; sales are up dramatically, 25 new employees have been added and more are expected. Mr. Dubilier attributes his company's survival and stability to the expeditious assistance provided by the Trade Adjustment Program.

CRESCENT GLASS COMPANY
WEST VIRGINIA

Mid-Atlantic TAAC

Project Summary

MARKETING, TRAINING,
MANAGEMENT CONTROL SYSTEMS

I. Background

This firm is a manufacturer of illuminating glassware and votive candleholders with annual sales close to $2.0 million. These products are sold primarily to wholesalers in a fairly wide geographic pattern.

Imports from Taiwan and Mexico impacted the firm to the extent that sales decreased by more than 10 percent between 1978 and 1979 and employment decreased by 30 percent between 1978 and 1980.

The firm's financial results were erratic during this period as losses related to decreased volume were experienced.

Problems other than the impact of imports were production inefficiency, inadequate cost controls and poor control of inventories.

II. Assistance

A survey of the marketing position of the firm and an overall analysis of the manufacturing operations were made. Strategies involving expansion of the decorated glassware product, which is less vulnerable to being impacted by imports, and improvements in internal operations were developed.

A training program for workers performing the decorating function was developed and implemented. Systems for improving control of inventories, product costing and cost control were designed and installed.

III. Results

The firm expanded its capacity to produce decorated glassware and, as a result of improvements in production efficiencies and controls, has been able to gain and to maintain a consistent short lead time position with its customers.

Inventories have been reduced and increased turnover rates have resulted in substantial savings. Due to the improved cost controls and product costing systems, the firm has been able to price its products for greater saleability.

In spite of its market dependence on the ailing housing industry, the firm has been able to stabilize its financial position at lower than capacity operating rates.

WEXLER KNITTING MILLS, INC.
PENNSYLVANIA

MARKETING AND FINANCE

Project Summary

I. Background

This firm, a sweater manufacturer with sales over $3.0 million, sells its products to brand name manufacturers, national retail chains and wholesalers.

Imports from the Far East impacted the firm's sales to the extent that several major accounts were lost and a 10 percent reduction in sales volume was experienced. This reduction in sales led to a 15.0 percent decrease in the firm's employment.

The firm incurred losses from operations and its working capital position was seriously eroded.

II. Assistance

TAAC assisted the firm's management in the development of a recovery plan with the following strategy:

Expansion of sales force and establishment of an office/showroom in New York

Development of a private label

Participation in large volume programs with national chains

Employment of a full-time designer and use of designing consultant servies to develop a fashionable product line.

Assistance was provided in the preparation of an application for a $1.0 million direct loan to be used for working capital to support the inventories required for the marketing strategy.

III. Results

The firm's sales have approached $5.0 million per year, primarily through participation in the high volume program with national retailers. Employment has returned to levels close to pre-impacted numbers.

The firm is making a profit from operations.

IMPERIAL READING CORPORATION
VIRGINIA

MARKETING, FINANCE

Project Summary

I. Background

This firm, with annual sales over $50 million, manufactures private label denim and corduroy jeans and children's and women's sportswear. The firm's customers are major chain stores and national department stores.

The firm has been severely impacted by imports from the Far East and, as a result, sales decreased by 23.0 percent between 1977 and 1979; in this same period employment decreased 48.0 percent from a level of almost 3000 employees in 1977. The reduced demand for the firm's products forced the closing of several plants.

Losses from operations were incurred with a detrimental affect on the firm's financial condition.

The main problem area to be addressed was marketing.

II. Assistance

The assistance provided the firm centered around financial aid and the development of a marketing strategy. A guaranteed loan of $3.0 million and a direct loan of $1.0 million were secured for the firm to be used for fixed assets to upgrade production facilities and for working capital.

In addition, a marketing study provided the background for the development of a strategy emphasizing a new product line - designer jeans for adults.

III. Results

The new product line has attained a volume that constitutes 50 percent of the firm's business. Overall sales have increased by more than 4.0 percent since 1979. Employment has increased by almost 5.0 percent since production of the new product line began.

The improvement in the marketing position of the firm has resulted in a return to profitable operations and an improvement in future prospects for increases in employment.

FASS BROTHER, INC.
VIRGINIA

FINANCE, MIS,
MANUFACTURING

Project Summary

I. Background

This firm, with annual sales of $35 million, is a processor of seafood with other activities in vessel management, seafood restaurant and commercial fishing.

Fresh or frozen products are sold to institutional, retail and wholesale customers throughout continental U.S. and in several foreign markets.

The firm has been impacted by imports from Japanese fishing fleets and, as a result, employment decreased after 1977 by almost 5 percent and financial losses from operations were incurred.

II. Assistance

After analyzing the firm's needs, TAAC assisted in the preparation of a recovery plan consisting of a two-year development and capacity-building program, supported by financing, with the following elements:

Expansion of existing docking facilities and development of new docking facilities

Additional processing and freezing space including construction of an ice plant

- Fleet expansion
- Construction of a service and repair facility
- Acquisition of a processing vessel
- Additional working capital required for growth
- Seasonal line of credit and letters of credit
- Refinancing of existing term debt
- Technical assistance for an MIS system.

Assistance was provided by TAAC to obtain the extensive financing to support the plan. A multi-tiered financial package totaling $17,750,000 was put together from the following sources:

$1,500,000 from Industrial Revenue Bonds

$3,050,000 from a local bank

$ 550,000 from direct EDA loans

$12,650,000 from private investors and other government funding programs.

III. Results

The firm's sales have increased by 33.0 percent over the period 1977 through 1980. Employment has increased in the same period by 42.0 percent to a high of 365 employees.

The firm has returned to profitability and is in a much more stable financial position.

Technical assistance to develop computerized inventory controls and to perform sales analyses are expected to be provided in the near future.

LONDON KNITTING CO., INC.
PENNSYLVANIA

Project Summary

MARKETING, FINANCE
MANAGEMENT CONTROL SYSTEMS

I. Background

The firm manufactures men's, women's and children's clothing in wool and acrylic fibers and tennis wear. The manufacturing process runs from purchase of raw materials to shipping finished products. Merchandise is sold through a selling agent to middlemen who put finishing touches on garments and then ship to retailers.

Imports mainly from the Taiwan/Hong Kong area impacted the firm between 1979 and 1980 with the following results:

Sales declined by 12 percent from almost $3 million.
Employment declined by 23 percent to 81 employees.
Heavy operating losses were incurred.

Other area of concern: Due to management's day to day involvement with operating activities, more emphasis was needed on market analysis and fashion trend analysis to avoid inventory problems.

II. Assistance

Assistance was provided in the areas of financial planning, marketing study and operations analysis: cost and inventory controls.

Broad based strategies were developed aiming at expanding existing sales levels and improving operating efficiency by:

1) developing and marketing a new line of active sportswear - warm-up suits for men, women and children

2) reestablishing traditional sweater business at an acceptable level through emphasis on styling and sales to larger chains

3) implementation of in-house control procedures to control/monitor internal costs (specifically inventory costs)

4) lay groundwork for eventual penetration into the international apparel market.

A direct loan of $1.0 million was applied for and secured to be used for fixed assets and working capital.

In addition, a consultant's study of operations with emphasis on cost control was provided.

III. Results

As a result of the assistance provided, the firm's sales have increased by 50 percent from 1980 to 1981 to volumes that permit efficient operations.

Employment has increased and became stable at a level near 100 employees, an increase of 36 percent over the low figures in 1977.

Inventories have been reduced and the resultant improvement has contributed to a reduction in operating costs. The firm returned to a profitable operation in 1981 with a large swing from an operating loss in 1980.

The study of the firm's operations led to improved efficiencies in the sewing operations with savings of approximately $65,000.

FLASH TRIMMING COMPANY
PENNSYLVANIA

Project Summary

MARKETING, INDUSTRIAL
ENGINEERING, FINANCE,
MANAGEMENT CONTROL SYSTEMS

I. Background

This firm, with annual sales of $2.5 million, designs and manufactures novelty trimming and embroidery for men's, women's and children's jeans. The products are sold to brand name accounts throughout the U.S.

Imports from the Hong Kong area impacted the firm causing a reduction in sales of almost 10 percent and a 15 percent reduction in employment.

Reduced sales volumes resulted in financial losses from operations for the firm.

Additional problems that required attention were low productivity in the work force and inadequate internal financial controls.

II. Assistance

Assistance in the form of market studies, an analysis of manufacturing operations and an assessment of existing internal controls was provided to the firm. A comprehensive recovery plan was developed with strategies that included:

Improving production efficiency and costs by the development and installation of a piece rate incentive plan for the workers

Realigning plant facilities for greater efficiency

Designing and installing a forecasting and budgeting system

Increasing sales by developing two new product lines

Expanding the existing marketing organization

In addition, the firm was assisted in applying for a $350,000 direct loan to be used for fixed assets and working capital.

III. Results

The piece rate incentive system has been installed and is expected to provide savings in excess of $125,000 annually.

The internal controls over the firm's operations have been greatly improved with resultant cost reductions and effective systems for managing the business.

Sales have increased by 25 percent to $3.0 million in 1981.

Employment has increased by 7 percent to 140 employees.

From 1980 to 1981 the firm's financial results have swung from a loss to a profit from operations.

WILLITS SHOE COMPANY
PENNSYLVANIA

Project Summary

MARKETING, MANUFACTURING, FINANCE, MANAGEMENT CONTROL SYSTEMS

I. Background

This firm, with annual sales close to $6 million, manufactures boys' and girls' shoes for private label sales to national retail chains.

Import penetration of children's shoes, increasing year by year, averaged 45 percent of the market in 1979. The impact of imports on the firm's sales and employment resulted in a 15.0 percent reduction in units sold from 1977 to 1980 and a 11.1 percent reduction in employment.

The firm's principal financial problems were a heavy debt structure, large interest expense and slow turning receivables.

Additional problem areas included aging production facilities, less than optimum inventory turnover and lack of some appropriate control procedures.

II. Assistance

A survey including market studies, an in-depth analysis of the firm's financial condition, an audit of manufacturing capabilities and an assessment of management was made. This study provided the informational background for the strategic planning needed for a recovery plan for the firm.

The marketing strategy involved increasing the firm's retailer base by 25 percent over a three year period, widening the firm's geographic sales strength outside of the Mid-Atlantic area and increasing the value of key house accounts.

Manufacturing and management strategies included modernizing production facilities and improving management information and other control systems.

A loan application for $1.0 million guaranteed loan for fixed assets and inventory expansion was processed.

III. Results

Firm has upgraded its sales force by replacing marginal producers and has increased its large wholesale private label business. Service to retailers has been improved through establishment of a same day shipping policy.

Employment has increased in 1981 by almost 5.0 percent over 1980.

Technical assistance in computerizing the inventory system is expected to be provided in the near future.

Engagement Summary

Ithaca Gun Company

Shotgun Manufacturer | Finance, MIS, and Engineering

Background:

Ithaca Gun Company is a manufacturer of high quality sporting firearms that suffered a $5 million decline in annual sales due in large part to steadily increasing sales of imported firearms. The company's major products consist of sporting shotguns of various gauges used for hunting, trap and skeet shooting.

Objective:

The objectives of this engagement were to assist Ithaca Gun Company in returning to profitability and maintaining their employees by securing the necessary financing and providing skilled consulting services. NYS TAAC worked closely with the firm's top management in developing a strategic business plan calling for financial assistance, engineering/new product development and implementation of an improved Management Information System.

Components of the Engagement:

NYS TAAC staff members in conjunction with the management of Ithaca Gun evaluated the working capital needs of the company and prepared a Trade Act loan application. The seasonal and unique nature of this business required special attention to cash flow projections.

An outside consulting firm specializing in electronic data processing was selected to assist the firm in the installation of a much improved in-house management information system utilizing a data base concept.

Currently the NYS TAAC is developing an engineering proposal such that Ithaca Gun can soon start production of an innovative, newly designed trap gun.

Summary:

With the disbursement of the working capital loan ($750,000), the company has been better able to schedule production and minimize the seasonal industry cycles. The MIS program is already generating more timely, reliable information which will result in continuing cost savings. The third phase of the program is nearly in place and should result in substantial sales increases. In addition to the new trap gun, Ithaca has developed another new hunting shotgun that has generated considerable excitement in an industry that is often characterized as old-fashioned and non-responsive.

As a direct result of the assistance provided under the Trade Act, Ithaca Gun has been able to maintain its market share in the face of a severe industry downturn.

Macler Industries, Inc. Marketing and Manufacturing

Background:

Macler manufactures cast iron products sold to original equipment manufacturers. Its annual sales of 3000 tons declined due to imports of compressor, economizer, EGR valve and carburetor castings. It also suffered a secondary loss because many of its clients were also import impacted.

Objective:

The objective of the New York State Trade Adjustment Assistance Center's participation was to assist the firm in developing a strategy to increase sales. To do so would require the protection of existing sales as well as the development of new markets.

Components of Engagement:

The New York State Trade Adjustment Assistance Center's staff examined the firm's facilities, systems and marketing programs. It also met with Macler's key managers to assess the firm's ability to develop new products and to identify major growth obstacles.

A foundry specialist was also retained to evaluate the firms capabilities and to recommend a growth direction.

Summary:

The result of this effort identified the need for Macler to develop new processes. Without this, it could not remain competitive or develop adequate market diversification. It was also established that a long range coordinated program was essential and that outside engineering was required to execute it. The need for improved marketing techniques and improved information systems was also established.

An engineering consultant was engaged to assist in the installation of two new systems. One, the vacu-shell system, has been the first installation of its type in this country and sample products are now being produced. An economic analysis determined that the second system be phased to conform with sales. It permits Macler to produce massive heat exchanger castings. The prototype phase layout is now being replaced with the next phase and subsequent phases will take place as sales demand.

Marketing tools have been developed which are now in use and a computer has been installed. Manual information systems are systematically being converted and new systems will soon be designed and added.

The engineering consultant is still active and now concentrating on plant layout, material handling, ventilation and pollution control improvements.

The firm is pleased with its progress and feels that this would not have transpired had it not been for the New York State Trade Adjustment Assistance Center's assistance.

Utica Duxbak Corp.

Outdoor Sportswear Manufacturer Production and Marketing

Background:

Utica Duxbak Corporation, founded in 1904, is primarily engaged in the manufacturing and selling of hunting, fishing and outdoor clothing. The firm sells direct to retail accounts through its own sales force and manufacturer representatives.

Annual sales and employment peaked in 1978 at $4,425,000 and 100. However, sales and employment declined by 1980 to $4,000,000 and 88. This decline is attributable to the importation of cheaper competitive clothing from foreign exporters and domestic manufacturers having sportswear made for them abroad.

Objective:

A review of the firm established the goals of helping the firm formulate a strategy for improving profits. The strategy was designed to reduce manufacturing costs through increased operating efficiencies; increase sales through expanding the market base and obtain a fixed asset and working capital loan to finance the increased sales derived from the marketing effort.

Components of Engagement:

A key component of this engagement was the evaluation and selection of consulting firms to reengineer the firms pant production line and develop a comprehensive marketing plan.

The reengineering work included:

1. Analyzing the various styles of pants being manufactured to determine the potential to standardize particular operations.

2. Developing an optimal pant line production layout which will optimize operators, floor space, workstations and equipment requirements.

3. Design an incentive system to yield actual average earnings sufficiently high to permit the firm to compete successfully for employees in its labor market and produce maximum productivity.

4. Develop economical and expeditious material handling procedures.

The marketing plan included:

1. Identification of new markets with a plan for penetration.
2. New product development.
3. Establishment of a profitable corporate marketing direction.
4. Image building.
5. Determination of market share available to the firm.

Summary:

As a result of the reengineering of the pant production line the firm has experienced a cost reduction of 15% in one year. As sales volume increases greater reductions are anticipated.

As a result to the comprehensive marketing plan the firm has begun to regain lost volume and attacked new markets through the establishment of factory outlet stores throughout the Northeast.

With the assistance of the New York State Trade Adjustment Assistance Center the firm obtained a direct fixed asset loan of $157,500 and a direct working capital loan of $740,500 from the Economic Development Administration.

MIDWEST TAAC ENGAGEMENT SUMMARY

CLIENT: Brooks Leather Sportswear (BLS)
14511 W. 11-Mile Road
Oak Park, Michigan

BACKGROUND:

BLS manufactures motorcycle leather sportswear. Between 1977 and 1979, BLS sales volume increased from $1.8 million to $2.4 million. It's operating profit for the same time period increased from $185,000 to $306,000. In 1979, BLS had 30 employees. In January of 1980, BLS lost its Harley-Davidson account which represented 30% of total sales. Harley-Davidson started buying like products made in Taiwan. Retailers of motorcycle leather sportswear were importing directly from Taiwan and Korea. Even though quality of imported sportswear was not as high as that of BLS, the motorcyclist was not always that discerning and he purchased the lower-priced import.

As a result of the loss of Harley-Davidson account and declining retail sales, total sales volume and earnings were adversely affected. BLS came to MIDWEST TAAC to seek consulting help on how to avoid further sales decline, but more importantly how to increase sales volume and make the company more competitive.

BLS management had some practical thoughts on how to improve sales; management wanted to institute a nationwide manufacturer's representative network, advertise nationwide, and sell to the European market. Independent input was sought from the MIDWEST TAAC to validate management's ideas and to help in implementing them.

OBJECTIVE:

The objective of this engagement went beyond evaluating management's marketing thoughts. Financial strategies, policies and controls were to be evaluated. Plant layout, work flow and production scheduling was to be evaluated.

APPROACH:

MIDWEST TAAC staff consultants had on-site discussions with the management of BLS, after a tour of the plant.

Some of the findings, based on plant tour, discussions and in-depth analyses, are:

Marketing

- o Confirmed need for nationwide manufacturer's representative network. Having dealers only in the midwest was too narrow as a sales base.
- o Confirmed need for advertising in media that have nation-wide access. This effort required the assistance of an advertising agency.
- o The requirement for an in-depth study of the European market to determine the market potential for BLS. This study, estimated at $20,000, was to be financed through technical assistance from ITA.

Production

- o Plant layout needed some improvements
- o Production scheduling and work flow needed to be improved upon.
- o More efficient inventory control systems needed to be instituted.

Estimate of production-related technical assistance was $20,000.

Finance

- o Need for operating budgets
- o Need to improve BLS equity via greater retention of earnings
- o Evaluation of lease/purchase of a computer

SUMMARY:

BLS received technical assistance in these amounts:

- - $20,000 for export market studies
- - $20,000 for production-related improvement studies
- - $2,000 for evaluating the need for an in-house computer, and evaluating whether to buy or lease once the need is established.

BLS had been able to implement some of the adjustment plan findings. Some manufacturers representatives have been signed on. More are being signed on around the country. BLS is committed to exporting. The more noticeable results of MIDWEST TAAC's association with BLS are:

- o Improved sales in 1981. Total sales volume: $2.6 million.
- o Increased employment: Not only has BLS been able to retain the 30 employees it had at the time it came to MIDWEST TAAC, BLS has increased its employees roll to 32.

[illegible] Information Systems

DALTON INDUSTRIES, Inc. Willoughby, OH, Contact: Mr. Ed Young
VP, Administration

BACKGROUND:

This large firm designs, manufactures, and markets women's sportswear. Increased imports of all apparel, combined with shifts in market preference, caused a sales drop in 1979 of more than 20%.

OBJECTIVE:

The major objective of this engagement was to assist the firm in improving its ability to react more promptly to market trends and to actual sales.

COMPONENTS OF THE ENGAGEMENT:

After conducting a comprehensive review of the companies marketing, managerial and operational practices, the TAAC engaged consultants to assist the firm on two pivotal projects.

The first was a $33,000 project to develop techniques to improve sales forecasting so as to reduce the production of unwanted merchandise that would have to be marked down at the end of a season.

The second was a $55,000 computer programming project to redesign the company's computer data base to accommodate the first project and also to accommodate other future improvements in management information systems.

SUMMARY:

As a result of the company's efforts, in conjunction with the trade adjustment assistance provided, the following has occurred. The company has increased employment to 1800 from the 1400 previous peak and from 1100 at the low point.

- **Sales have returned to the previous level**
- **Profitability has been enhanced**
- Company management is receiving better information with which to respond to market conditions.
- Further improvements are being made in production control and in materials management.

NOTE: The company has authorized the use of its name in this report but does not permit release of sales or profit figures.

RESULTS

The firm made a loan application in Washington. The loan application committee suggested several changes in the application be made. The firm will resubmit its application before April 1, 1982. Technical assistance for a marketing study and for industrial engineering will also be applied for.

CLIENT: Cleveland Motive Products, Inc.
Manufacturer of Automobile and Truck Parts for the Aftermarket

BACKGROUND:

Cleveland Motive Products, Inc. (CMP) was founded in 1953 as a distributor of automotive and truck components for the aftermarket. The present owner purchased the company in 1974.

U-Joint, Inc. (UJI) was formed in 1977 to produce U-joints for the automotive market. U-joints provide flexibility to the drive train between the transmission and the differential of rear-drive vehicles.

CMP markets U-joints which it purchases from UJI. It also markets hanger bearings which it assembles from parts purchased from outside vendors. Hanger bearings are used to support the drive shaft of trucks and some larger passenger cars. Recently, a line of timing components has been added to the CMP product lines. These are presently purchased for resale through CMP's distribution system.

UJI's only product is U-joints that it sells to CMP and to its own customers on a private label basis.

Sales, profits, and employment were as follows:

	1978	1979	1980
Sales (Million $)	5.1	6.5	5.4
Profits (Thousands $)	237	343	(209)
Employment (Average)	62	67	69*

*As of October 1, 1980, actual employment was 50

Hanger bearings accounted for about 63 percent of sales.

Components of the Engagement

MIDWEST TAAC staff members conducted marketing, manufacturing, and financial analyses of the firm's operations.

Three overriding problems existed:

- The firm's products were import impacted.
- A recession existed in the firm's only market, the automotive industry.
- A transition was taking place from rear-drive to front-drive vehicles.

In addition, the firm was having startup problems with a high-speed transfer machine that could produce 17 U-joints a minute. The company's ability to survive in the U-joint market depended on the successful operation of this machine.

Strengths that the company had were a good distribution system and capable management and marketing personnel.

The strategy which MIDWEST TAAC assisted CMP in developing included:

- Remain in the hanger bearing market and expand the line to include popular sizes and types not now produced.
- Remain in the U-joint market, concentrating on bringing the transfer machine up to the required production rate.
- Expand the present line into high-mortality engine, drive line, and chassis parts.
- Enter the front-wheel drive market, starting with rubber boots and expanding into metal parts at a later date.
- Enter the export market, initially in Venezuela and other Latin American countries where contacts had already been established.

These projects were forecasted to create potential sales of about $20 million by 1984.

Implementation

To implement the above strategy would require:

- Technical assistance in the form of a market study to determine and prioritize the new products to be added, at an estimated cost of $25,000.
- Technical assistance in the form of services of an industrial engineer to redesign the layout and work flow planning at UJI, at an estimated cost of $12,500.
- Financial assistance in the form of a guaranteed loan for $2,400,000, of which $1,775,000 would be allocated to machinery and equipment and $645,000 to working capital.

It is expected that implementation of the proposed strategy would result in employment increasing from its 1980 level of 50 to 90, 120, and 152 in 1982, 1983, and 1984, respectively.

SOUTHEASTERN TAAC ENGAGEMENT SUMMARY

I. BACKGROUND

Dawson Industries, Inc., is located in Dawson, Georgia with sales and administrative offices located in New York City. The firm currently engages in the manufacture, sales, and distribution of men's, women's, and children's athletic/active sportswear in knit and woven fabrics of cotton and synthetic fibers. Its product line in the past also included sleepwear and panties. Today, their products are sold to speciality stores, department stores, and discount chains either by independent representatives or company salesmen, depending upon geographic territories.

After enjoying success in the early seventies, the firm began to experience serious competition from imported ladies' and children's apparel products, particularly sleepwear and panties, from the Far East. Between 1974 and 1976, Dawson Industries suffered a 34 percent decline in employment (from a high of 585), a 20 percent decrease in sales dollars (from a high of $5.8 million), and a 15 percent decline in production.

II. ASSISTANCE PROVIDED

The firm developed a new business strategy to combat the effect of imports and to regain its competitive position. Working with the New York TAAC, Dawson Industries received a $1 million Trade Act loan to provide working capital for repositioning its sportswear line to include higher prices and more fashion-oriented garments. The firm was able to increase sales from $4.6 million in 1976 to almost $11.7 million in 1979 based on this new strategy.

Despite this significant increase in sales volume, Dawson was unable to achieve adequate profit performance. Because of continued import competition, the firm could not raise its prices and had to focus on manufacturing cost reductions as a means of restoring acceptable profit levels.

The Southeastern TAAC assisted the firm in formulating a strategy for improving profits, with particular regard to reducing manufacturing costs and increasing managerial efficiency. Based on an operational audit performed by the Southeastern TAAC, several opportunities were uncovered. To improve operations, the Southeastern TAAC recommended the installation of a fully integrated production system; the re-engineering of the sewing room to include the development of new piece rates and cost reporting; supervisory training and new line balancing methods; modification of existing product costing procedures to allocate direct overhead and materials cost more accurately; a review and improvement of plant layout; and the establishment of improved operating budgets.

The Southeastern TAAC provided technical assistance toward achieving these ends by engaging private consultant contractors to address the areas of production control, product costing, and sewing room engineering, while the firm used its own resources to effect other of the recommended changes.

III. RESULTS

Dawson Industries has been successful in achieving its goals. Sales in 1981 reached $18.0 million. The cost reduction program in the manufacturing area can document savings in excess of $100,000 annually, contributing to a return to acceptable profitability. Employment in Dawson, Georgia has returned to previous levels, and excellent prospects exist for an expansion which will add 100-150 new jobs in an economically depressed area. Jobs have also been created in other manufacturing firms which act as a subcontractor to Dawson in producing garments to meet sales opportunities.

. . . . .

I. HISTORY/PROJECT BACKGROUND

The Keane Monroe is a North Carolina Corporation, manufacturer of automatic door operators. Historically, the firm experienced sales levels of $3 million and total employment of 62 persons. The firm suffered a sudden 22% decline in sales volume when Besam, part of a large Swedish conglomerate, purchased Keane Monroe's largest distributor for distribution of Besam's own automatic door operator products.

II. TRADE ADJUSTMENT ASSISTANCE PROVIDED

The Southeastern TAAC conducted an audit of the firm's operations. A strategic plan was developed with the following objectives: 1) develop new products to fill significant product line gaps and improve the price competitiveness of certain existing products; 2) improve the visibility of the Keane Monroe name and gain acceptance by major chains and architects; 3) reduce the dependence on Northeast markets by expanding sales in other areas of the country; and 4) strengthen market planning and management programs.

Keane Monroe committed its requisite strength to many of the critical tasks necessary for recovery; however, the company needed assistance in several areas. The company's 1979 marketing plan was rendered useless by the unexpected nature of the sales-decline. The firm needed an objective examination of its market opportunities and some reduction with respect to geographic and product concentration. Marketing expertise was provided to the company to conduct a market planning study for the company. The project consisted of four phases: 1) Review and analysis of Keane Monroe's marketing and the market; 2) Development of marketing objectives and strategies; 3) development of detailed marketing action plans; and 4) estimates of potential sales and marketing cost. The plan was favorably received by the ownership of Keane Monroe. To completely implement the plan on the outlined timetable, some new financing was needed. After reviewing the firm's strategic plan, the Regional Office of EDA accepted the plan and agreed to provide additional assistance.

The company and SETAAC worked out an extended timetable and the company proceeded to implement the plan.

III. RESULTS

It has been two years since the company has received Trade Adjustment assistance. Much has been accomplished. As a result of the market planning provided by the TAAC, and the effort put forth by the management and employees of Keane Monroe, the company developed three new products and brought them to market: 1) a versatile overhead concealed electrohydraulic operator, the Series 4500, which is said to be the quietest in the industry; 2) a heavy duty slider operator, the Series 7000, which has sold very well; and 3) a light duty operator, the Series 100, which is inexpensive enough for residential use. Two new regional sales managers were hired, and the sales efforts in the Midwest, northern California, and Southeast sales regions have been successful. In 1981 the company enjoyed sales of approximately $3.6 million and registered an after-tax-profit of $103,292, despite interest payments of $85,000 above the budgeted amount (due to unexpectedly high prime interest rates). This represents a 24% increase in sales and a 686% increase in after-tax-profit. The future looks bright for Keane Monroe. It has more than regained the business lost in the Northeast, has new products with customer appeal, and has regained its profitability.

TRADE ADJUSTMENT ASSISTANCE ENGAGEMENT SUMMARY

I. HISTORY/PROJECT BACKGROUND

The Joy Footwear Corporation, located in Hialeah, Florida was founded in 1971 as a manufacturer of casual footwear and athletic shoes generally made of canvas upper components and rubber soles. We were a relatively successful company and by 1977 had reached $9 million in sales, comprised mostly of canvas basketball shoes. We employed approximately 350 persons.

In the years following 1977, the nylon and vinyl jogging shoe became very popular, and the market for basketball shoes and canvas shoes in declined. Joy Footwear began to manufacture jogging shoes but was unable to attain any degree of success in this market because of the market being flooded with cheaper imports from Taiwan and Korea. Price wise, Joy Footwear was unable to compete with the imports because it lacked the ability from a productivity standpoint to make up the difference between American and (cheaper) foreign wage rates.

By 1979 sales had declined from the 1977 high of $9 million to $4.5 million. Employment was down from 350 to 140. As the result of declining sales and unprofitable operations, the company was financially weak and unable to borrow money in the private sector.

II. TRADE ADJUSTMENT ASSISTANCE PROVIDED

In 1979, Joy Footwear Corporation filed a request for Trade Adjustment Assistance with the Department of Commerce. The firm was certified as eligible to request assistance and did so by requesting help in the preparation of a strategic business recovery plan.

A well-known national consulting firm was provided through the Trade Adjustment program to assist the company in developing a strategy to overcome the problem of import impaction. The consultants audited all company operations to identify the problems and opportunities of the firm. The consultants, together with the management of Joy Footwear, prepared a tactical plan which included the following elements:

1. A consolidation of product lines, with concentrated effort in certain product lines and market segments;
2. An improvement in both the quality and quantity of the sales force;
3. The purchase of production equipment, including two additional injection molding machines, which would increase the plant output to levels consistent with sales projections; and
4. The installation of sewing machinery work aids and revision of the work measurement system to improve productivity and reduce labor costs.

The plan was submitted to the Department of Commerce and subsequently approved, thus allowing Joy Footwear to receive additional technical and financial assistance to implement its recovery plan.

Financial assistance was provided through the Trade Adjustment Assistance Program to support Joy Footwear's strategy. A combination guaranteed/direct loan was approved for $1.75 million to supply working capital for the new marketing strategy and to purchase the new equipment for the productivity improvement strategy. Technical assistance was approved to provide 12 person-months of on-site industrial engineering expertise to restructure to work measurement standards and install machinery work aids.

III. RESULTS

As a result of the production efficiency program, manufacturing costs were reduced by 15 percent. Some productivity savings were passed along to the employees allowing them to increase their hourly earnings. The technical assistance, together with the new working capital, provided the basis of Joy Footwear's active pursuit of the new jogging shoe market.

Sales for 1981 were $16 million -- up from the 1979 low of $4.5 million. The company now employs 600 persons, many female, mostly Spanish-American workers in the Hialeah-Miami area.

Type of Trade Adjustment Assistance
Guaranteed Loan: $1,500,000
Product Refinement Asst.: $18,500

Firm Name: Amplifone Corporation
Address: P. O. Box 4340
Brownsville, TX 78520
Telephone: 512/541-3461
Contact: Mr. T. K. Handing, Sr., former President

Amplifone Corporation had historically provided components to manufacturers of television sets. Imported components, particularly from Japan, had captured virtually all of the firm's markets. Amplifone took definite steps with its own resources to try to combat this situation: the firm moved from Illinois to Brownsville, Texas to reduce operating costs while diversifying into consumer electronics and into the design and manufacture of components for the growing data communication/computer markets.

Foreign competition continued to erode the firm's market; during 1978 one of the firm's two plants was closed when foreign interests purchased the domestic consumer T.V. manufacturer which had been purchasing the total output of that plant.

When assistance began in 1979, employment was at 137 persons (down from 165 in 1976); all of these jobs would have been lost without Trade Adjustment Assistance. Units of production had declined from approximately 622 thousand units to approximately 324 thousand units.

As a result of Mid-America Trade Adjustment Assistance Center's Diagnostic Review and Economic Recovery Plan an EDA guaranteed loan was made in February of 1980 providing greatly needed fixed asset and working capital financing. Without Trade Adjustment Assistance this firm would have been put out of business by imports.

The Mid-America Trade Adjustment Assistance (through the competitive-bid process) arranged for a consultant which designed a new product from an existing product line (a magnetless flyback - a flyback is used in CRT's, T.V.'s and other electronic video display devices). This new product was of the magnitude that a major firm, Atari, bought Amplifone. The new owner has expanded employment by 23.3 percent to 212 persons; sales have increased substantially and are expected to be up by 50 percent by mid-year over last year.

Type of Trade Adjustment Assistance
Consultant Assistance: $67,000

Firm Name: Stevie Togs, Inc.
Address: 3527 Broadway
Kansas City, Missouri 64111
Telephone: 816/531-4333
Contact: Mr. Sam Greenstein, President

Stevie Togs, Inc., an apparel manufacturer with production facilities in Parsons, Kansas, had for 30 years manufactured children's apparel, with emphasis in the boys' jeans line. Imports of children's apparel made significant inroads into Stevie Togs' markets. Consequently, the firm applied for Trade Adjustment Assistance in September, 1980.

Stevie Togs' principal management had begun investigating the ladies' wear markets. Mid-America Trade Adjustment Assistance Center (TAAC) engaged an industry consultant to review Stevie Togs' operations and to investigate the feasibility of the firm's moving into the women's wear market. The study clearly showed that the firm should drop the boys' jeans line and move into fashionable ladies' sportswear.

The firm's financial condition was sound enough to enable it to finance required capital expenditures without outside assistance. Significant assistance in production and in supervisory retraining was required to assure a smooth and successful transition during the change of its principal product lines. A competitively-bid consultant contract was executed by Mid-America TAAC to provide the required assistance. The firm shared 25 percent of the cost of the technical assistance.

Cost-savings has been estimated by the consultant to be $115,000, and this figure is presently being documented. Employment at the time service began was 151 persons which was down from the 219 persons the firm employed prior to the adverse effect of imports. Sales volume has remained stable even in light of the deletion of the existing line, and Stevie Togs expects sales to show increases in the next year.

INFORMATION OBTAINED
FROM PUBLIC SOURCES

Type of Trade Adjustment Assistance
Direct Loan: $1,000,000
Guaranteed Loan: $3,000,000
Product Development Asst.: $10,000

Firm Name: Billy the Kid, Inc.
Address: 4171 N. Mesa, P. O. Box 9817
El Paso, TX 79988
Principal Product: Boyswear and other apparel lines

Billy the Kid, Inc. was founded in 1937 and has developed into a leading boyswear manufacturer. The firm experienced healthy increases in net sales until 1978 when sales began to decline due to the impact of imports on most apparel lines.

In 1979, the Mid-America TAAC began to assist the company by examining the firm's operations. From this initial assessment, it was determined that the firm needed to develop a business plan to reverse their declining sales levels and remain a viable company.

It was determined that an outside consulting firm who specialized in the apparel industry should be retained to evaluate the firm's operation and recommend appropriate solutions. A competitive analysis was also conducted to assess the firm's relative standing in the apparel industry and to assess any potential opportunities for diversification.

The investigation revealed that sales could be significantly increased through diversification into related apparel lines, and profit margins could be widened through the implementation of a company-wide cost reduction program. To enable the firm to successfully implement the recommended strategies, a $3 million guaranteed loan for working capital and a direct loan of $1 million for fixed assets was requested under the Trade Act of 1974.

In February, 1981 the requested financing was received. As a result of the technical and financial assistance obtained through the Trade Adjustment Assistance Program, net sales for the 39 weeks ended June 27, 1981 rose 18 percent, year-to-year, reflecting gains in unit volume and higher average selling prices due to changes in the product mix. Aided by a company-wide cost reduction program, margins widened and pretax income surged nearly 2-1/2 times. After tax earnings increased to 37.6 percent from 22.5 percent a year earlier, while net income nearly doubled to $2.08 million from $1.05 million during the same time period.

For the fiscal year ended 9/26/81, net income advanced 59 percent to $2.9 million, compared with $1.8 million a year earlier. Revenues totaled $111.0 million, up 20 percent from the $92.5 million generated during the same time period a year earlier. Aggressive expansion is continuing in domestic markets as well as in export sales to Europe, Japan and South America.

Type of Trade Adjustment Assistance
Technical Assistance: $275,000
assistance in production scheduling
Direct loan: $1,000,000

Firm Name: Osceola Shoe Co.
Address: 9475 Crompton Road
Osceola, AR 72370
Telephone: 501/563-6594
Contact: Mr. William Page, Jr.

Osceola Shoe Co. formerly manufactured houseshoes. Their market was decimated by Taiwanese and Korean imports; therefore, late in 1979, the firm sought Trade Adjustment Assistance.

A review of the firm's operations disclosed that the firm, through significant adjustment in its marketing approach, could feasibly penetrate the market for casual shoes and for golf shoes. Also, the firm could regain a significant competitive edge through obtaining its raw materials in greater quantities and through improvements to its production scheduling. Osceola Shoe Company's working capital had been impaired from its loss of market share, so the firm applied for a direct working capital loan under terms of the Trade Act of 1974 (since private sector financing was not available to them) and entered an agreement to share in the cost of the production assistance to be provided under the terms of this same act.

The services of a major accounting firm were obtained under contract to develop the marketing plan and also to develop, install and refine a computer module to be used in production scheduling late in 1980. Consultant performance spanned all of calendar 1981 and is entering its final performance stage. The firm also took advantage of export opportunities presented through the Trade Adjustment Assistance for Industry program.

During the course of involvement in Trade Adjustment Assistance, the firm's employment increased from an average of 500 persons to approximately 650 persons or by 30 percent. Since the firm's production facilities are located in the delta farmland area of Arkansas, the impact in terms of diversification of employment opportunities in an agri-based economy cannot be overstated. Concurrently, its sales increased by 43 percent in calendar 1981 as compared to 1980, escalating from $14 million to $20. Substantial improvements were achieved in net profits during this same period.

Osceola Shoe Co. has historically shared half the cost of assistance provided under the Trade Act of 1974. In these final assistance phases, the firm is paying 100 percent of the required subcontract consultant cost associated with custom programming of software. As a result of the Trade Adjustment Assistance received, this firm is a healthy, viable employing unit in the communities in which it is located.

Type of Trade Adjustment Assistance
Guaranteed Loan: $375,000
Marketing Assistance: $6,500

Firm Name: Fairfax Mfg. Co., Inc.
Address: Hwy 59, P. O. Box 218
Fairfax, MO 64446
Telephone: 816/686-3381
Contact: Mr. James H. Hunter, President

Fairfax Mfg. Co., Inc. is a manufacturer of small wood products, principally gift items for men consisting of pipe racks, ashtrays and dresser valets. In 1975, its product line was copied by the Taiwanese and imported into the United States. These imported products were retailed at approximately one-half the price of Fairfax's products due both to the labor advantage enjoyed by the Taiwanese and also to the fact that the Taiwanese had no costs associated with the development of designs since they copied the products.

From 1975 through 1979, the imported products captured half of Fairfax's domestic market share. Consequently, Fairfax's employment decreased from 60 persons to 19. In October, 1979, Fairfax petitioned for eligibility to apply for Trade Adjustment Assistance. The firm was certified. Mid-America Trade Adjustment Assistance Center assisted the firm through the performance of a diagnostic review of its operations and the preparation of an economic adjustment plan which identified areas of financial and marketing assistance necessary to effect the firm's adjustment to its loss of market share to foreign imports.

The firm received approval of a $375,000 loan, guaranteed under terms of the Trade Act of 1974. Shortly thereafter, the firm's plant site was flooded. The firm was closed for six weeks while the flood damage was repaired. Without the financial assistance, the firm would not have survived the ravages of both a flood and of import impact. As production resumed, an outside consultant was engaged by Mid-America TAAC to provide in-depth assistance to the firm in the area of marketing. This assistance enabled the firm to diversify its product line and to enter the premium market. To date, the firm's sales have increased more than 25 percent--and they continue to increase. The firm's employment has stabilized at 20 persons.

Little World, Inc.
112 W. 34 St.
New York, N.Y. 10001

Friedrich Knitting Mills, Inc.
8400 73 Ave.
Glendale, N.Y. 11227

Contact person: Ed Stalzer, V.P.
(212) 894-4500

Product: Knitted Infants and Childrens Wear

When Little World was certified in 1979 its sales were $4.9 million down from sales of $5.9 million in the previous year. Employment at the time of certification was 186. Imports from the Far East had impacted the firm.

Metropolitan NY TAAC diagnosed Little World's problems and assisted them in the development of its business plan which culminated in May 1980 with Little World receiving an $800,000 working capital loan from the EDA. The firm also received implementation technical assistance which included a marketing study and merchandising plan, and an engineering study with emphasis in the knitting areas, pay incentive program and production scheduling.

This implementation technical assistance which was supplied by Metro NY TAAC at a cost of $70,000 became the basis upon which Little World was able to adapt to the changing market place. For example, Little World diversified its production by marketing woven bottoms that coordinated with their knitted tops. This has made their product more salable. The channels of distribution were also diversified to include chain stores. In 1981 sales made to the chains were $3,000,000.

In addition, the technical assistance provided in the production area alone resulted in a one year savings at least equal to the $70,000 spent on the total technical assistance.

The benefits of the loan produced an obviously better cash flow, that allowed the company to remain successfully in business. The firm has gone beyond its sales projection of $7.5 million to $8 million while employment increased to approximately 250 in 1981.

Dawson Industries Inc.
1350 Broadway
New York, New York 10001

Contact Person: Max Angel, Pres.
(212)695-9215

Product: Ladies Lingerie and
Men's, Ladies and Children's Actionwear

When Dawson Industries was certified in 1977 its sales were $4.5 million and articles produced were 855,000 dozens. Employment at the time of certification was 385. Imports from Overseas had impacted the firm.

This Trade Adjustment Assistance Center assisted Dawson Industries in the development of its loan application which culminated in November 1979 with the firm receiving a $1,000,000 working capital loan from the EDA. The firm also received implementation technical assistance which included an engineering study with emphasis on plant layout, pay incentive program and production scheduling.

This implementation technical assistance which was supplied as a co-operative venture between Metro NY TAAC and Southeastern Regional TAAC at a cost of over $100,000 became the basis for plant expansion from 40,000 sq. ft. to 132,000 sq. ft. This resulted in greater plant capacity and efficiency.

The benefits of the loan produced an obviously better cash flow, that allowed the company to expand and diversify its business, and increase its production and reduce unit costs. Instead of floundering, the business grew. Sales increased from $4.5 million in 1977 to $18 million in 1981, while employment increased from 385 to 450 during that time.

JOLIE HANDBAG, INC.
416 West 13th Street
New York, N.Y. 10014

Contact Person: Gerald Manowitz, President
212-691-5265

Product: Ladies Handbags

When Jolie Handbags, Inc. was certified in December 1978, its sales were $2.9 million and articles produced were 1,375,000 units. Employment at the time of certification was 140. Imports from Overseas had impacted the firm.

Metropolitan N.Y. TAAC diagnosed Jolie Handbag's problems and assisted the firm in the development of its loan application which culminated in November 1979 with the firm receiving a $850,000 working capital loan and $150,000 fixed asset loan from the E.D.A..

Jolie Handbag, Inc. has also received Marketing technical assistance. This assistance which was supplied as a co-operative venture between Metro N.Y. TAAC and the National Handbag Association became the basis upon which Jolie Handbag was able to adapt to the changing market place. For example, Jolie Handbag changed its market field from discount stores (low price handbags) to shoe and apparel chains (moderate price handbags) who are more fashion oriented.

The benefits of the loan and the technical assistance allowed the firm to increase its sales from $2.9 million in 1978 to $7.6 million in 1981, while employment increased from 140 to 269 during that time.

The management of Jolie Handbag, Inc. believes that the firm would not be in business today, if it were not for the Trade Act of 1974.

KOLTIS ENTERPRISES, INC.
780 East 135 Street (South Bronx)
Bronx, N.Y. 10453

Product: Ladies' Shoes

Contact Person: John Koltis, Pres.
212-993-4900

When Koltis Enterprises, Inc. was certified in October 1977, its sales were $3.8 million and employment at the time of certification was 100. Imports had adversely affected the firm.

Metro N.Y. TAAC diagnosed Koltis Enterprises's problems and assisted them in the development of its business plan which culminated in October, 1981 with Koltis Enterprises receiving a $790,000 working capital loan and a $210,000 fixed asset loan from the EDA. The firm also received implementation technical assistance which included a marketing and engineering study with emphasis on plant layout, pay incentive program and production scheduling.

This implementation technical assistance which was supplied by Metro N.Y. TAAC and an outside consultant at a cost of over $80,000 resulted in savings, in the production area alone, at least equal to the over $80,000 spent on the total technical assistance.

The benefits of the Trade Act produced a better cash flow and production efficiency that allowed the company to remain successfully in business. The firm increased its sales from $3.8 million in 1977 to $5.2 million in 1981 while employment increased from 100 to 150 during that time.

Dame Belt & Bag Co., Inc.
636 Eleventh Avenue
New York, New York 10038

Product: Belts & Handbags

Contact Person: Jeffrey Mehler
212-581-8030

Amid the current slump in the garment and allied needle trades industry, Dame has continued to increase its sales since being certified in 1976.

Sales will have increased from 3 million in 1976 to approximately 15 million dollars by the end of 1982. N.Y. Metro TAAC has helped Dame perform this dynamic turnaround through assisting them in obtaining an interim Small Business Administration loan of $300,000, plus loans from EDA and technical consulting assistance.

The job impact realized by Dame and New York City through the Trade Act of 1974 assistance was 200 jobs saved and an additional 135 added jobs. Now, Dame employs a total of 335 people and employs hundreds more through the contractors it utilizes. Also, since Trade Act help, the company has seen earnings jump 23 times since 1977.

From a total loan program of one million dollars ($600,000 F.A., $400,000 W.C.) through EDA - Dame has been able to purchase new production equipment, purchase raw materials at volume discounts, and increase it's finished goods inventory. All of this has helped to reduce costs, and enabled the firm to service it's customers better. In addition, Dame added an Oleg Cassini designer line and also diversified into small leather goods (wallets, keychains, etc.) thus finding a niche which the imports did not affect.

Dame's performance is an inspiration to the entire handbag industry and to all troubled firms - especially when we take into consideration that they have amortized nearly $750,000 of their $1,000,000 loan.

KELLY SLAX, INC.
1384 Broadway
New York, N.Y. 10018

Product: Men's and Women's Pants

Contact Person: Joseph Kelly,
President
212-575-9070

When Kelly Slax was certified in 1980, its sales were $6.3 million, down from sales of $10.7 million in the previous year. Direct employment by Kelly and the contractors it used was 528 in fiscal 1979, down from employment of 954 in the previous year. Imports from the Far East had seriously affected Kelly's business and chances for survival.

Metropolitan New York TAAC diagnosed Kelly Slax's problems and business opportunities and assisted the firm in the development of its strategic marketing plan for recovery. These efforts culminated in September 1981 with Kelly receiving $1,500,000 of financial assistance, of which $1,000,000 was a direct loan by EDA and $500,000 was a bank loan guaranteed by EDA. The proceeds of the loan were used for fixed assets ($285,000) and working capital ($1,215,000).

The benefits to Kelly of the trade adjustment assistance program were significant...survival and growth. Because a prerequisite to obtaining financial assistance was the submission of a written adjustment strategy, Kelly crystallized into a consistent strategy what had previously been only ideas. In addition, the prospect of Kelly's obtaining financial assistance influenced the bank to liberalize the existing arrangement with Kelly at a time when banks were generally retrenching their portfolio of loans to the apparel industry. Later when Kelly received notification from EDA of approval of its loan application, Kelly was able to get increased trade credit to buy raw materials and generate enough sales to remain healthy. When its loan closed in September 1981, its financial condition and chances for growth were obviously further enhanced.

Despite financial assistance, Kelly probably would not have survived if it had not had an excellent strategic marketing plan. This plan led to the firm's adjusting to negative conditions caused by imports. Kelly adjusted by significantly diversifying into other product segments and distribution channels. From 1979 through 1981, Kelly's reliance on menswear decreased 97% of company sales to 51%, and womenswear increased from 3% to 49%. From 1979 through 1981, Kelly's reliance on chain store and catalogue channels decreased from 100% of company sales to 56%, and specialty department stores increased from 0% to 44%.

The benefits of trade adjustment assistance to Kelly were survival and growth, resulting from successful trade adjustment and increased working capital. Since becoming certified, sales have increased from a depressed level of $6.3 million to $11.2 million and employment from 528 to 838.

TAAC continues to assist Kelly Slax in its trade adjustment. Kelly will receive an estimated $125,000 of additional technical assistance. The assistance will be to improve productivity and lower costs in production and distribution operations, and to identify profitable market segments for further diversification. Because Kelly's manufacturing facility is in Georgia, this technical assistance project will be a cooperative one involving Metro N.Y. TAAC, Southeastern TAAC, and Kelly.

WESTERN TAAC ENGAGEMENT SUMMARY

Fishing Pole Hardware Manufacturer Marketing and Production

Background

This manufacturer of fishing pole components and accessories, after a history of gradually increasing volume and profits for over 30 years, started to show a sharp downtrend when impacted by imports from the Orient in 1977. Volume receded from $2,300,000 to under $1,500,000, while employment was reduced from over 80 to under 30 workers.

Objectives

Western Taac perceived that the firm would have to find outlets for its capabilities in areas other than fishing poles, since this appeared to be a dying domestic industry. An outside production engineering consultant was engaged by Western TAAC to evaluate the firm's machinery and equipment and to help determine in which markets the firm might have a viable place.

In addition, Western Taac was asked to evaluate the feasibility of the firm's entering the aluminum anodizing field, either for its own products or as a contractor, or both.

Furthermore, it was determined by Western TAAC that a new product line would have to be developed to make optimum use of the firm's facilities.

It was also observed that outside financing would be required to enable the results of these findings to be implemented.

Components of the Engagements

The production engineer determined that the firm rightfully belonged in the job-shop business and set about identifying suitable areas for pursuing this direction.

The Western TAAC staff made projections of cost and performance factors associated with entering the aluminum anodizing field.

Western TAAC engaged an outside consulting firm to identify new products suitable for the firm to manufacture as proprietary items.

Summary

As results of the application of Western TAAC resources to the problems confronting the firm-

- The firm was enabled to bid successfully for job shop work in the aerospace industry, including being accepted as eligible from the point of view of Quality Control.

- Because it was determined that entry into the aluminum anodizing field was not likely to be cost effective, the firm was saved the probability of losing substantial sums of money and the loss of valuable executive time in a fruitless endeavor.

- The outside consultants engaged to identify new products did, indeed, identify more than a dozen viable products, some of which the firm will very likely manufacture in the near future.

- Western TAAC helped the firm secure an SBA loan of $375,000, which has been instrumental in enabling the firm to reach its objectives.

As a further result of this assistance, volume is now beginning to pick up and the work force is up to 40 persons. The company is firmly established in the job shop field and is finding increasing acceptance for its work. Negotiations are proceeding with the respective inventors and/or their representatives for manufacturing the identified proprietary items under license.

Personal leather goods manufacturer

Plant feasibility
Information systems
Marketing and Finance

This firm is a smaller family owned leather goods manufacturer with sales in the $2 million dollar range. The products include high quality wallets, check book covers, purses and key cases for both men and women. Products are sold through better department stores and luggage specialty shops.

Because of the father's old-world leather craftsmanship training the product competes favorably with the best personal leather goods on the market today no matter what the country of origin.

In addition to price competition from off-shore products this firm was also experiencing the same dificulties that all firms experience as they transcend the dividing line between entreprenuerial start-up and higher volume production.

The manufacturing area although well organized was at capacity for the existing space.

Production control and inventory control were also at the upper limits of capacity for the manual information systems that were being used.

And finally, the marketing activities were proceeding in a haphazzard sell-where-it-could-be-sold manner.

Objectives

The objective of this engagement was three-fold as follows:

1. Find alternate ways of expanding production space and examine the feasability of each
2. Locate or design an information system that would handle the Company's requirements during their next phase of growth

3. Develop an organized strategy to marketing that would orient the Company's thrust in the same direction thus complementing and building on each achievement

Western TAAC assisted these companies on all three fronts by arranging for consulting assistance in each area.

Results

1. The feasibility study determined that a new plant should be built on land adjacent to the existing plant if financing could be obtained at a certain rate of interest. If not, a work flow reorganization would be necessary until that interest rate was available.

   Western TAAC is presently in touch with several state and community assistance programs to obtain appropriate financing.

2. The requirements of an information system have been identified and the Company is presently accepting proposals from various suppliers based on these requirements.

3. A marketing strategy task has been responded to by several qualified consultants and the Company is in the process of deciding on one.

The Company is looking forward to operating in a much more efficient manner at the conclusion of each of these projects and anticipating continued steady growth over the long term even in the face of potent import competition.

Jewelry Manufacturer Marketing, Production and Design

Background

Annual sales for this manufacturer of costume jewelry rose from $32,000 in its first year, 1961, to a peak of over $800,000 in 1977, when import competition began to be felt. In 1978 sales fell to $425,000; and employment went from a high of 35 to a low of 6.

It seemed apparent to management that a rapid departure from costume jewelry, which had been almost entirely taken over by offshore manufacturers, into karat jewelry was strongly indicated. But this area, too, was being invaded increasingly by Italian, Israeli and Far Eastern firms. The client wished to enter the field of artificial diamonds in gold settings.

The firm did not have the finances to do a marketing study to determine the viability if this step.

Objective

A diagnostic study of the firm by Western TAAC revealed that there was a need for funding, a change in the product line and improvement in the design of any line, improved production engineering and a better understanding of its marketing problems.

Components of the Engagements

Western TAAC engaged the services of the country's leading jewelry consultant to determine the feasibilty of the articial diamond field for the client. They also obtained the services of consultants in production and design. In addition, the Western TAAC staff analyzed the results of the feasibility study as it applied to marketing, and hired a financial consultant to help with the preparation of the client's Loan Application.

Summary

The results of these engagements indicated that the firm's intended entry into the artificial diamond field was not only feasible, but well timed and likely to succeed. The designs of the mountings were greatly improved. The machinery was improved by the addition of inexpensive attachments, and the workers were better trained to utilize the machines to their fullest capacity.

The firm obtained a direct loan from EDA for $250,000 and their cash flow subsequently changed from negative to positive.

Sales volume increased to the million dollar annual level. Employment doubled within a short period, and the firm reached a profit mode for the first time in several years.

NORTHWEST TAAC ENGAGEMENT SUMMARY

Fishing Flies and Tackle Manufacturer Marketing and Engineering

Background

The firm's president is one of the nation's foremost fly fisherman and fly tiers. The firm's hand tied flies are world famous for quality, balance, and other features; and it has developed and introduced many of the most effective trout and other fishing flies in use today. The firm is in its 45th year of operation, managed by the founder and his son. Sales fall into several classifications including wholesale/distributor, retail store, and mail order, representing 52%, 25%, and 23% respectfully of typical prior years' total sales.

Business Strategy

Springboard for the sales development programs of all divisions is the firm's flies, as this is the product for which the company is world famous. In recent years sales have been impacted by flies imported from Columbia, India, South Africa, and other foreign countries. This impact seems to have adversely affected all divisions, and the competitive import situation was (and is) not expected to become less severe.

A small, initial investigative analysis by an outside consulting firm diagnosed the firm's strengths and recommended long- and short-term marketing training implementation assistance which concentrated on expansion of the retail sales division (store and mail order) as the key areas which would provide long-term viability for the firm. Concurrently a small engineering consulting services contract helped solve a technical engineering problem for a specific product's riveting process allowing resumption of production and sales.

Mushroom Producer

Cultural Producer

Background

The firm was incorporated in 1964 through the purchase of an existing mushroom growing and processing business. Gross revenues went from approximately $300,000 in 1965 to a peak of $4.97 million in 1979. The original product line was a full array of consumer sized canned mushrooms and sauces along with a partial line of institutional sized canned pack. In 1966 imported canned product from Asia decimated their market. The firm diversified into fresh product in markets of the Northwest. As the fresh product market grew the firm went through three phases of expansion to fulfill demand. In 1979 fresh product importation from British Columbia severely penetrated the firm's market. This second wave of import impaction was concurrent to their Phase III expansion completion and some start up technical cultural problems. Northwest TAAC's involvement began as the firm's major secured creditor began foreclosure proceedings. Two hundred and three (203) jobs were about to be lost.

Business Strategy

TAAC staff became intensely involved with the firm and its secured and unsecured creditors in the following months developing a busines plan and assisting the firm restructure its equity and debt financing. The TAAC involvement was the major reason that the secured creditor provided interim financing during this critical business planning phase.

Result of Business Strategy

The firm's business plan is currently six months into implementation. Technical consultants have been hired with government assistance to correct cultural growing problems and conduct employee training with the sophisticated state of the art Dutch Tunnel composting systems and automated tray equipment.

An $800,000 EDA direct working capital loan is in place. The "presence" of a potential Trade Act loan provided the firm and TAAC with considerable leverage in negotiating concessions and financial restructuring from a major Northwest bank as follows: 1) the bank forgave $800,000 in accrued interest, 2) the bank converted $1,000,000 of short term debt to equity, 3) the bank termed out beyond the EDA loan (7 yrs.) $1,200,000 of short term debt.

Five hundred thousand dollars of new equity was brought in prior to the EDA loan approval, and disbursement of the final $300,000 of the proceeds is based on placement of $600,000 of new equity. A current Regulation A, Private Placement Offering is underway. The firm is meeting projections. One hundred and fifty six (156) current jobs are secure.

This Trade Act Direct loan provided a 5.3 to 1 ratio of private sector dollars, without a shut down, the ensuing loss of jobs, and, all outside of protracted bankruptcy proceedings.

Fishing Rod Manufacturer   Marketing and Engineering

Background

This thirty-year-old firm produces fiberglass and graphite fishing rods and blanks. Sales, production, and employment peaked in 1976 at $2.6 million, 400,000 and 100 respectively. Fiberglass fishing rod imports were severely impacting sales and working capital to the point where foreclosure was imminent.

Business Strategy

An initial diagnosis of the firm identified the following major problems and constraints in addition to fiberglass rod imports: 1) Scattered facilities (six buildings, two locations), 2) overcrowding at plant sites, 3) loss of productivity -- 4.9 x annual employee turnover, 4) inefficient and insufficient manufacturing equipment, 5) lack of adequate working capital.

The business recovery strategy provided for consolidation of operations at one location, modernized equipment, improved cost controls and management reporting, as well as market and product diversification. A Trade Act loan for a combination of fixed assets and working capital in the amount of $998,000 was approved and is currently in place.

Result of Business Strategy

The turnaround has been effected. The consolidation of operations has taken place. Employee turnover has decreased to significantly less than industry norms. After initial shakedown of consolidated operations productivity has met projections. Eighty-four employment positions are secure. Product and market diversification is being implemented in accordance with the business plan timetables and gives every indication of increased sales, production employment and profits.

February 19, 1982

Mr. John J. Salmon
Chief Counsel
Committee on Ways & Means
U. S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D. C. 20515

Dear Mr. Salmon:

I am advised that your committee will soon consider the possible demise of the Trade Adjustment Assistance Program. Lamiglas, Inc. is a company that is deeply indebted to this program for financial aid and for counseling and other assistance given to us by the Western TAAC office and from the Economic Development Council of Puget Sound. Trade adjustment assistance has enabled us to effect a drastic turn around in our company.

Our industry has been severaly affected by foreign imports to the extent that now approximately 75% of the fishing rods sold in the United States are manufactured in foreign countries. With the aid of trade adjustment assistance, we have been able to move from a near bankruptcy situation in 1978 and 1979 to a much more financially stable position today with solid identity in the domestic marketplace.

I am aware that drastic cuts must be made in government spending to give our country the ability to work its way out of the present economic dilemma. This is not unlike the situation we found ourselves in three years ago in our own company. However, I feel strongly that the trade adjustment assistance program should remain intact if at all possible and sincerely urge you to give it your full support. If our company may be used as an example, this program has saved a domestic tax paying corporation that employs an annual average of seventy-five people, with annual sales of approximately $2,500,000, of which approximately 10% is exported to other countries.

It is doubtful that Lamiglas, Inc. would be in existance today without the help given to it by the Trade Adjustment Assistance Program. I will greatly appreciate anything you can do to help insure the continuance of this program.

Sincererly,

LAMIGLAS, INC.

Dick Posey/lc

Dick Posey
President

Cong. Les AuCoin
231 Cannon House Office Bldg.
Washington, D.C. 20510

Dear Les:

I enjoyed your hearing in McMinnville. Hope that the others throughout the district went as well.

Mac McLaughlin, who heads up the Trade Adjustment Assistance program in the Northwest, working out of the Economic Council of Puget Sound offices in Seattle, has talked to me several times about the program in our region.

Apparently the $28 million national budget is proposed for elimination in the 1983 budget. I understand there will be hearings in the Ways and Means subcommittee on Trade in the next few days and the issue could come to Appropriations at a later time.

The program, through technical assistance and without involving federal funding, has been substantial in our area. In the past three years 59 companies have been aided with technical assistance and an additional 42 firms have been helped without any EDA or ITA money. In numerous cases, after technical assistance, local financial institutions have supplied financing.

There have been only 10 cases involving EDA or ITA loans. I don't have the breakdown for the four states, but only about six cases have been Idaho or Montana. Real help was provided Pacific Fireplace, in the Tigard area, and Fisher International. I know Mac tried to help Coast Range Veneer in McMinnville but we couldn't get financing from either private or public sources. A number of shake companies have been assisted--cost analysis, product analysis, accounting systems, etc.

Apparently about half of the $28 million has been for loans and the balance for these technical programs.

I understand there is strong sentiment in the House for continuation of the program, which is a small item in the total budget. If you agree, you might be able to have some effective input in the hearings Sam Gibbons will be holding.

Also, I would be interested in the feelings of other members of our delegation, both in the House and Senate. They may have seen favorable impact of the program in their districts.

If there is further information we might be able to provide your office please let me know.

Sincerely yours,

Phil

Philip N. Bladine
Publisher

February 19, 1982

Mr. John J. Salmon
Chief Council
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Salmon:

I am enclosing a copy of my letter dated October 6, 1981, which was addressed to Mr. Malcom Baldridge.

As my letter outlines, we feel very strongly that your Trade Adjustment Assistance program as currently in existance, has definite benefits which will enhance President Reagan's economic recovery act. If it was not for an assistance program such as this, many employees would have lost their jobs and the company would have simply terminated.

I strongly urge you to consider the continuation of this program which we feel is highly beneficial to the economic development of our community and other communities in general.

Kindest personal regards,

SUNSET SPORTSWEAR, INC.

W.R. Huisingh
President

October 6, 1981

Mr. Malcolm Baldridge
Secretary of Commerce
Main Commerce Building
Washington, D.C. 20230

Re: Trade Adjustement Assistance For Firms Under Section 251 of the Trade Act of 1974, Public Law 93-618

Dear Secretary Baldridge:

As a result of the assistance the above program has offered and given to Sunset Sportswear, the economic benefits will be greatly felt in the Seattle area. The success of your assistance has already began to show. I would personnaly like to commend you for the program you have offered and implemented successfully.

A brief review of the assistance you have given Sunset and the benefits derived are as follows. Sunset has drastically been affected by a deterioration caused by being unable to compete effectively against the low cost foreign imports. As a result, a decision had to be made to protect the value of the company. Do we close our complete manufacturing operations in Seattle, as two other large manufacturers did (Black Manufacturing and Farwest Garments), or do we use our ingenuity in developing a program in which we might save the jobs of our two hundred employees.

As we analyzed our strengths and weaknesses we came to some definite conclusions. Our strengths and expertise were in manufacturing and overall business management. Our weakness was our ability to market our products on a profitable basis due to the impact of imports in our industry. Our capital and resources were and are limited and therefore we could not afford the technical assistance to do an in depth study and research so as to determine if it was feasible to continue operations. Thanks to your support, we were able to continue our technical research with attorneys and accountants.

We are now excited to report that we have structured a meaningful relationship with another company that was not as strong in management and manufacturing expertise, but had a built in vehicle to market the product.

If it was not for a program such as your, we would not have been able to do the necessary research and thereby solve the marketing problem facing Sunset. We will have additional work to do in developing a strong company, but I really thought you should personally be made aware of the success of this program.

I sincerely appreciate the efforts of your staff in Seattle, particularly F. J. McLaughlin and Nancy Lamke, as they have exhibited their high degree of skill in assisting our firm. Their ability and professional manner in dealing with Sunset reflects a strong organizational base of which you can be proud.

Again, I want to commend you for this program which has proven to be extremely beneficial to the Seattle economy.

Most Sincerely,
SUNSET SPORTSWEAR, INC.

W. R. Huisingh
President

February 23, 1982

Mr. John J. Salmon, Chief Counsel
COMMITTEE ON WAYS & MEANS
US House of Representatives
Room 1102
Longworth House Office Bldg
Washington, DC 20515

Dear Mr. Salmon,

It has come to our attention that the Trade Adjustment Assistance Program is not included in the proposed Administration Budget for 1982-1983.

From what I understand and have experienced, the program has not been expensive and has been very effective for the dollars spent. It has certainly helped a number of smaller firms such as ours adjust to changing market conditions brought about by free foreign trade without the addition of restrictive tariffs which in the long run do more harm than good.

The consulting assistance we have received due to this program has been outstanding. This has led to the ability of this firm to take definite steps towards recovery from severe foreign trade competition in major product areas. Also, the assistance we have received is the major factor in surviving the severe recession we are facing in our industry, allowing this company to enter its Fifthieth Year of Business in 1982.

It is inconceivable to me that a Federal Program as efficient as this would be considered for elimination.

I would be more than happy to provide any additional information at our disposal in hopes that the Trade Adjustment Assistance Program will not be terminated.

Sincerely,

Ronald A. Schoenheit
President

STATEMENT OF HUMBERTO LOPEZ, PRESIDENT, THE JOY FOOTWEAR CORP.

My name is Humberto Lopez, and I am president of The Joy Footwear Corporation, which is located in Hialeah, Florida. I am a native of Cuba and immigrated to this country in 1960. I became a United States citizen in 1967. I attended Georgia Institute of Technology in Atlanta, Georgia, receiving a degree in Industrial Engineering.

The Joy Footwear Corporation was founded in 1971 as a manufacturer of casual footwear and athletic shoes generally made of canvas upper components and rubber soles. We were a relatively successful company and by 1977 had reached $9 million in sales, comprised mostly of canvas basketball shoes. We employed approximately 350 persons.

In the years following 1977, the nylon and vinyl jogging shoe became very popular, and the market for basketball shoes and canvas shoes in declined. Joy Footwear began to manufacture jogging shoes but was unable to attain any degree of success in this market because of the market being flooded with cheaper imports from Taiwan and Korea. Price wise, Joy Footwear was unable to compete with the imports because it lacked the ability from a productivity standpoint to make up the difference between American and (cheaper) foreign wage rates.

By 1979 sales had declined from the 1977 high of $9 million to $4.5 million. Employment was down from 350 to 140. As the result of declining sales and unprofitable operations, the company was financially weak and unable to borrow money in the private sector.

In 1979, Joy Footwear Corporation filed a request for Trade Adjustment Assistance with the Department of Commerce. The firm was certified as eligible to request assistance and did so by requesting help in the preparation of a strategic business recovery plan.

A well-known national consulting firm was provided through the Trade Adjustment program to assist the company in developing a strategy to overcome the problem of import impaction. The consultants audited all company operations to identify the problems and opportunities of the firm. The consultants, together with the management of Joy Footwear, prepared a tactical plan which included the following elements:

1. A consolidation of product lines, with concentrated effort in certain product lines and market segments;
2. An improvement in both the quality and quantity of the sales force;
3. The purchase of production equipment, including two additional injection molding machines, which would increase the plant output to levels consistent with sales projections; and
4. The installation of sewing machinery work aids and revision of the work measurement system to improve productivity and reduce labor costs.

The plan was submitted to the Department of Commerce and subsequently approved, thus allowing Joy Footwear to receive additional technical and financial assistance to implement its recovery plan.

Financial assistance was provided through the Trade Adjustment Assistance Program to support Joy Footwear's strategy. A combination guaranteed/direct loan was approved for $1.75 million to supply working capital for the new marketing strategy and to purchase the new equipment for the productivity improvement strategy. Technical assistance was approved to provide 12 person-months of on- site industrial engineering expertise to restructure the work measurement standards and install machinery work aids.

As a result of the production efficiency program, manufacturing costs were reduced by 15 percent. Some productivity savings were passed along to the employees allowing them to increase their hourly earnings. The technical assistance, together with the new working capital, provided the basis of Joy Footwear's active pursuit of the new jogging shoe market.

Sales for 1981 were $16 million — up from the 1979 low of $4.5 million. The company now employs 600 persons, many female, mostly Spanish-American workers in the Hialeah-Miami area.

Based on my company's experiences, I can testify to this Committee that the Trade Adjustment Assistant Program for firms is a very beneficial program. Today, Joy Footwear is a successful firm, but the battle against imports is not over. Joy Footwear is continuing to experience difficulty in competing with foreign labor. The company needs to continue to take advantage of available computerized stitching equipment that will increase the productivity of our workers.

I believe the Trade Adjustment Assistance Program for firms is a practical, cost effective way to support American industry in adjusting to the free trade policy, and I would like to recommend to the Committee that it be included in the forthcoming budget.

STATEMENT OF CHARLES W. WEIKEL, PRESIDENT, KMMCO, INC.

Good morning. I am Charles W. Weikel, President of KMMCO, Inc. (pronounced "KEMCO"), located at 16410 Stephens Drive, East Detroit, Michigan 48021. I am here this morning to tell you briefly about the impact of imports on KMMCO and what assistance we requested and received under the Trade Act Assistance Program. I will briefly review the following areas:

1. A description of our business
2. The circumstances which caused us to apply for assistance
3. What assistance we have received and its value
4. Our view of our future

I would like to state initially that the directors and officers of KMMCO agree with the objectives of the Administration and many in Congress to control government expenditures, particularly to reduce budget deficits as a means of controlling inflation, reduce interest rates and put the economy on a sound basis again. We recognize that the difficult decisions which this Committee must make involve differentiating between programs that may be desirable but which may not be equally effective or useful in achieving the realistic goals required today. Such decisions require both knowledge of the facts and wisdom. I hope my comments today will be helpful in your deliberations.

. Description of KMMCO's Business

KMMCO is a family-owned business. It was founded in 1940 as a supplier of automotive exterior trim to the major automobile manufacturers in Detroit. Until the late 50's trim was almost exclusively chrome-plated steel. Today it is mostly aluminum or vinyl covered aluminum and steel. It takes the form of the body side mouldings, window trim, rocker panels, wheel opening trim, head light bezels, etc. We manufacture the product to the specific design of the manufacturers mostly on large presses, roll form machines and metal bending machines. Additional processes in our plants include painting, anodizing, welding, buffing,etc.

Our customers in order of sales volume are General Motors, Ford, Chrysler, Volkswagen of America and others with about 98% of our sales dollars automotive. Our best year was 1979 when our sales were $31 million, our peak number of employees was about 1000 spread between our plants in East Detroit, Michigan; Pontotoc, Mississippi; Clanton, Alabama and Atlanta, Georgia. In 1979 we supplied about 20 percent of the OEM automotive trim market.

We have been affected both directly and indirectly by imports. Directly by a Canadian company that has moved aggressively into the U.S. automotive trim market and with the help of favorable wage rates, Canadian government assistance and other lower costs have been able to under-bid KMMCO and our U.S. competitors consistently. We have been affected indirectly also by the well-publicized flood of automobiles made in Japan, which, of course, arrive in this country fully assembled and with no need for domestic suppliers of trim.

Our current level of business is $16 million a year--about half of 1979's sales level. The automobile industry is in a depression which started over 18 months ago. Foreign built trim and automobiles are major causes of that depression and caused us to close our Mississippi facility in November 1981. Since 1979 we have been forced to terminate the employment of approximately 500 people in this and other locations.

2. Application for Assistance

KMMCO applied for assistnace under the Trade Adjustment Act in the late Spring of 1980. A diagnostic analysis under the auspices of the Midwest Trade Adjustment Assistance Center was made of our entire operation including a proposed major diversification into a process called structural foam plastics. We viewed this opportunity as an excellent diversification for us and the TAAC diagnostic analysis confirmed our conclusions.

The structural foam industry is a billion dollar industry in the U.S. today, growing rapidly during the past several years. This growth is expected to continue. One of it's most practical and cost-effective applications is in housings for office machines such as photocopy machines, typewriters and computer cabinetry and one literally can see these products everywhere, everyday. The potential applications for structural foam seem almost limitless and are being developed daily by the industry. Such applications involve the replacement of labor-intensive, cost-ineffective assemblies and complex parts of metal or other material.

3. Assistance Received

While KMMCO was able to hire experts and do detailed planning in the field of structural foam the devastating effects of the automotive depression considerably weakened KMMCO's financial ability. Three million dollars was required and KMMCO was unable to find that amount through conventional banking sources. Again, the Trade Adjustment Act came to our aid and with the assistance of TAAC a presentation was made to the Economic Development Administration first in Chicago and then in Washington for a $2.3 million loan guarantee. Our application was approved in January and finally closed in July 1981 giving us the $3 million dollars necessary to finance the venture.

Since Janaury KMMCO has built three state-of-the-art structural foam machines to our proprietary design and are in production today producing cabinetry for the Burroughs Corporation in Detroit. In the weeks immediately ahead KMMCO will be manufacturing parts for such companies as IBM, Xerox, Pitney-Bowes, Hazeltine, Wang, et al. We look forward to being one of the leaders of the structural foam industry in a very short time. By June 1983 we expect to hire an additional 100 employees at our East Detroit plant and we expect the growth beyond then to be impressive.

Considering the size and complexity of the effort, for a small company like KMMCO, the entire project has gone exceedingly well. Beyond the U.S. market, we have found significant marketing opportunities in Canada and overseas (the first parts we made were shipped to Scotland).

4. Our Future

Encouraged by this strong beginning we are optimistic about our future and our ability to help reemploy U.S. citizens. Again under provisions of the Trade Adjustment Act and with the help of the Midwest TAAC office we are planning a market survey of the European Common Market for both structural foam product and our proprietary presses. The survey will commence within 30 days.

On the metal trim side; our automotive sales seem to have stabilized... severe cost reduction program is beginning to pay off. Here too TAA has been of help. We took advantage of the technical assistance provisions of the Act and received Midwest TAAC's assistance in analyzing our energy usage (heat and electricity alone cost us $700,000 in 1981). While the exact cost saving is difficult to determine with falling volumes and a plant closing, we believe these costs have been reduced by as much as $90,000 a year. These important savings to our country and company would probably not be realized had it not been for TAA.

Finally TAA provided KNMCO with technical assistance in market research designed to identify possible work we can perform for specific companies and industries in the Southern states. The marketing emphasis focuses on our uniq strengths: anodizing and metal slitting with the objective of helping us diversify away from the mature automobile industry into new areas of growth. We hope this will strengthen our base and restore our Alabama plant, at least, to the level of employment it enjoyed as recently as two years ago.

That is KNMCO's success story, a result of our direct involvement with the Trade Adjustment Act. We are thankful for its availability. Without TAA and EDA we could not have entered the major diversification of structural foam, would probably not have realized the energy savings we are now achieving, nor done the marketing research and planning necessary to position ourselves for the mid-eighties. Because of the Trade Adjustment Act KNMCO has a very real chance of reversing the employment trend for the company and the communities in which it operates. As I understand, that's what the Act was intended to do.

STATEMENT OF GEORGE S. SEGAL, PRESIDENT, LGAM MANUFACTURING CO., INC.

Mr. Chairman, Members of the Subcommittee my name is George S. Segal, President of the LGAM Manufacturing Company, Inc. Woodsfield, Ohio and Morgan Shirt Company, Inc., Morgantown, West Virginia.

In 1960, I left the architectural field and entered into the field of manufacturing and designing of men and womens shirts. At present, I operate five plants in Ohio, Pennsylvania, West Virginia and Virginia, employing approximately 600 people. Our accounts are Polo, Izod, Evan-Picone, Pendleton Woolen Mills, Gant Shirtmakers, Eagle Shirtmakers, John Meyer of Norwich and Calvin Klein.

We have successfully manufactured for the most well publicized firms in the industry. With the impact of imports in 1978, we had lost half of our production contracts to the Orient and our employment dropped to 400 people. Morgan Shirt Company in Morgantown, West Virginia, applied for technical assistance in the form of an extensive engineering program to assist us in becoming more efficient. The program lasted one year at a cost of $250,000 of which Morgan paid 25%.

This program in assisting to defray most of the cost of the engineering, gave Morgan Shirt the ability to spend $200,000 for new machinery and equipment, thereby; bringing our efficiencies from 55% to 85%. The effectiveness of the new cost structure enabled Morgan Shirt to bring its prices down to a level of competing with a portion of the imports its accounts depended on. Employment increased from 175 to 260 by August, 1980.

LGAM Manufacturing in Woodsfield, Ohio, had employed 210 workers until early 1981. They are now down to 125. They produced 650 dozen Evan-Picone women's shirts a week. Evan-Picones volumes increased from $90,000,000 to $130,000,000 in 1980, but they produced less shirts in Ohio and more in the Orient because of the low off-shore cost.

We have again applied to the Trade Adjustment Assistance Center and they have helped us with a engineering program that we feel will revitalize this 20 year old plant.

Evan-Picone has agreed to work with us during this program so they can continue with LGAM Manufacturing as a competitive supplier.

Without this T. A. A. C. help and a new all-out engineering program, Picone would be prompted to drop all U. S. shirt production and have to produce totally in the Far East.

Gentlemen, I am extremely proud of the U. S. apparel industry. We have come a long way since I entered the field in 1960. I'm angered at the extensive publicity of the so-called "sweat shops" and the insignificant exposure of the vast amount of technically run quality oriented manufacturers that make up the other 99% of the U. S. apparel industry.

This country has a great apparel industry and its losing it fast to off-shore countries where labor is exploited at $.50 an hour. If you do not assist in protecting this industry, you will be cutting it short at the beginning of its new and aggressive technical developments.

In our case, a little bit of assistance has kept 600 people, mostly women, employed and kept them as vital working members of the community.

Thank you for your time and hope you realize the great need this industry has for the Trade Adjustment Assistance program.

STATEMENT OF EDWARD S. LEVY, EXECUTIVE DIRECTOR, NATIONAL HANDBAG ASSOCIATION

Mr. Chairman - members of the subcommittee, my name is Edward S. Levy Executive Director of the National Handbag Association.

I am appearing here today on behalf of the NHA membership and with the full support of my Board of Directors, which consist of 26 men and women who represent a complete cross section of our industry, all price points and every conceivable type of material used in making our product. Reptile, leather, vinyl, fabric, metal findings, zippers, thread, glue and many other products. Yes, a large segment of American manufacturers feed off of the handbag industry.

Some 155 American manufacturers are active members of our fine Association. We also have some 25 contractor and supplier members. Our members have plants from Rhode Island to Florida, from New York to California, from the largest manufactuer doing over 40 million dollars per year to shops doing less than 250 thousand per year. According to the U.S. census, there are some 400 handbag factories in the U.S. today.

Ten years ago, there were approximately 750 establishments producing handbags in the U.S., a decline of 47%. Total employment is now estimated to be less than 20,000. According to Domenic DiPaola, Managing Director of the Leather Goods, Plastics, Handbags & Novelty Workers Union, Local #1, AFL-CIO, its membership has declined 44% from 9,000 to 5,000 workers in the past 10 years.

The decline in U.S. handbag shipments, the decline in U.S. handbag producers, and the decline in U.S. handbag workers can only be attributed to the dramatic increase in handbag imports. Imports have gone from 39,560,000 units in 1967 to 170,225,000 units in 1981; a 435% increase. During that period of time, imports as a percentage of the domestic market increased from 29% to 80%.

The most important factors leading to an increase in imports are the free trade policies of the U.S., which recently led to the negotiated Multilateral Trade Agreement for lower tariffs and the low wage rates in Latin America and the Far East, which enable imports to enter the U.S. market in large quantities at very competitive prices.

The American handbag industry is down, but not out. There would not be an American handbag industry today if it were not for the Trade Adjustment Assistance program. In the Metropolitan New York area, 21 handbag producing firms received financial assistance totaling $14.3 million, preserving 2,325 jobs and estimated to create 2,175 additional jobs in

3 years. Most important is that hundreds of firms received technical assistance to help them adjust to increasing import competition. In addition, many handbag firms have obtained private financial, as well as other types of assistance that would not have been provided if it wasn't for the Metropolitan Trade Adjustment Assistance Center.

After EDA determined that imports were severly impacting the handbag industry, the National Handbag Association received in 1978, a U.S. Department of Commerce grant to fund an "Industry-Wide Recovery Program". This grant supplemented by cash and in kind contributions from the industry was extended for another year in September, 1980. The funds were distributed over 5 specific projects:

1. The design of a cost/price accounting system. This project was successfully completed by Price-Waterhouse, and its how-to manual distributed free of charge to all requests from the industry.
2. The organization of a fashion oriented education program. Coordination with the shoe, scarf, hat, dress, coat, sportswear and textile industries was accomplished. A series of fashion shows was implemented to show the "total look".
3. An extensive market study on consumer and buyer attitudes, including test marketing was performed throughout the U.S. These studies to determine the "lifestyles" of women in different parts of the country is available to all American manufacturers.
4. The development of a comprehensive export manual. That, plus export seminars helped increase the value of handbag exports 36% from 179 to 1980.
5. The National Handbag Association in conjunction with the Leather Goods, Plastics, Handbags & Novelty Workers Union, Local #1, AFL-CIO, the Fashion Institute of Technology and the City of New York established a school to train young talented people to design and make handbags. Only the influx of young people with new ideas and concepts can make the industry prosper. This school is considered a success by all and is now financed jointly by the industry and the unions.

Instead of copying designs from Europe, our handbag industry is now unique in its own right. Our talented designers and makers are now finding their own niche in the industry. There is excitement and hope in the air. Hope for the industry and hope for its workers. Technical assistance for both firms and the industry as a whole, must be increased. Support by this Subcommittee to continue the program is essential for the survival of this hundred year old industry.

SUMMARY

Last year, four out of every five handbags sold in the U.S. were imported. In the past ten years the number of U.S. Handbag manufacturers declined 47% and the number of workers is estimated to have declined 44%.

The benefits received by the Handbag Industry in accordance with Trade Act of 1974, was greatly responsible for its survival. It afforded the industry an opportunity to undertake research, marketing, educational and financial stueies to counteract the adverse affects of ever increasing imports. The results of these studies helped stabilize domestic sales and employment through strengthend internal efficiency, product improvement, installation of cost controls, and improved financial strength. A niche has been found for the American handbag industry. There would not be an American handbag industry today if it were not for the Trade Act of 1974.

RECOMMENDATIONS

The Handbag Industry totally supports the continuation of the trade adjustment assistance program for firms and industries. We believe that increased funding, especially for technical assistance, be provided in the FY 1983 Budget for Firms and Industries as administere by the U.S. Department of Commerce. A logical budget might include only $20 million for loans, but $30 million for the all important technical assistance.

Statement of Sidney Kulek, Executive Vice President, Xonics, Inc.

Mr. Chairman - members of the subcommittee, my name is Sidney Kulek, I am Executive Vice-President of Xonics, Inc. and President of Xonics Medical Systems, Inc.

I am appearing here today to tell you briefly about Xonics, Inc., the hardships the company has endured, caused in large part by the negative impact of imports in the x-ray business, our plan for complete recovery and the assistance that we have already received and expect to receive under the Trade Act Assistance Program.

History of the Firm:

Xonics Incorporated was founded in 1970 as a high-technology company with a number of proprietary products. In the past years, Xonics has undergone a series of major changes culminating in October 3, 1980, when it sold the last of its nonmedical subsidiaries. In March 1978, Xonics acquired the Litton Medical Systems Division (with sales of more than 3 times that of itself) as a bargain purchase/turnaround situation and in September 1978, Mr. Haverty was named Chief Executive Officer and the company's headquarters were moved from Van Nuys, California to Des Plaines, Illinois.

Upon joining Xonics in 1972, Mr. Haverty was given the responsibility of building a conventional diagnostic imaging company that would enable it to compete in that market. Xonics was developing a new type of imaging system (XERG) which it felt would eventually replace the silver halide type of systems. Xonics believed that it needed a conventional imaging company to enable it to sell this new product. In his first years at Xonics, Mr. Haverty acquired a small special procedure apparatus manufacturer--Medical Equipment Manufacturing Company (MEMCO). The Standard X-Ray Company, a manufacturer of low priced conventional X-ray equipment, was acquired in 1975. In 1976 and 1977, using the cash flow generated from both MEMO and Standard, the company acquired two additional companies to augment its medical group. These included Radiographic Systems, Inc., manufacturer of photochemicals and ELESCO (subsequently sold).

While the medical equipment group was enjoying financial success, the parent had made a number of nonmedical acquisitions, most of which proved to be unprofitable business ventures. At this time the company (Xonics) was having serious financial and management problems, and Mr. Haverty was asked to assume the presidency of Xonics while maintaining his responsibilitie for the medical group.

In 1977 it became known that Litton Medical Systems with annual sales of approximately $90 million was very unprofitable and looking for a buyer. Litton had upgraded its entire product line in its last three years and when acquired by Xonics the only product remaining to be completed was the 90/90 table. In January 1978, Litton contacted Mr. Haverty to determine if Xonics had an interest in acquiring Litton Medical Systems. Mr. Haverty was President of Litton Medical Systems in 1967 to 1972 when the company was profitable. Convinced by Mr. Katz, Xonics Chief Executive Officer and founder that working capital adquate to finance the turnaround could be obtained, Xonics consumated the acquisition on March 31, 1978, on the following terms:

1. $3 million down payment (borrowed Foothill Capital Corp.).
2. $10 million in notes, $5 million of which could be converted to preferred stock prior to April 1, 1979.

On April 1, 1978, Xonics assumed certain assets and liabilities of Litton Medical Systems and established a wholly owned subsidiary named Xonics Medical Systems, Inc. (XMS). A detailed business plan was generated and the philosophy of the operation of the company was drastically changed. The company immediately turned its efforts to increasing the sales of Xonics imaging equipment and productivity of its manufacturing organization and decreasing its indirect costs.

New working capital to finance the turnaround of XMS did not materialize and in September 1978, at the urging of its lenders, Xonics' Board of Directors elected Mr. Haverty Chairman of the Board and Chief Executive Officer. Mr. Haverty was named President and Mr. Kulek was named Executive Vice President and General Manager of XMS while they retained their responsibilities with Xonics Incorporated.

At the present the company manufacturers and sells medical imaging products through seven subsidiaries: Xonics Medical Systems, Inc. (XMS), Standard X-Ray Company (Standard), Medical Equipment Manufacturing Company, Inc. (MEMCO), Radiographic Systems, Inc. of California (RSI), EkoLine, Inc., Xonics Medical Systems Ltd. (UK) and Xonics Medical Systems Pty. Ltd. (Australia).

a. XMX has approximately 800 employees, 140,000 square feet of manufacturing space, 30 U.S. branch offices and more than 20 distributorships nationally and overseas. XMS is a full-line supplier of X-ray tubes and stands, tables, generators, film and ultrasonic and special procedure equipment. In the fiscal year ended March 31, 1981, XMS accounted for approximately 86 percent of the company's revenues from continuing operations.

b. The company's Standard and MEMCO subsidiaries were physically merged into the Xonics Medical Systems manufacturing facility in Des Plaines, Illinois and remain merely as product lines sold to a different customer group at the present time.

c. The company's RSI subsidiary, headquartered in the Los Angeles area, was acquired in fiscal 1978, and manufacturers photochemicals and sells consumables. RSI has more than 3000 medical outlets for its products.

d. EkoLine, Inc. located in Sunnyvale, California represents an acquisition made for stock in November of a division of the SmithKline Corporation which manufacturers ultrasound equipment. As a part of the acquisition, the company acquired two foreign subsidiaries located in the United Kingdom and in Australia which are basically Sales & Service Offices for the distribution of the ultrasound products aboard. Going forward, we will use these new subsidiaries as outlets for the X-ray products manufactured in Des Plaines to the European and Asian markets.

The company's income and employment picture for the last 5 years show the following:

($000)

	FYE 1978	FYE 1979	FYE 1980	FYE 1981	FORECAST FYE 1982
Net Sales	$ 14,405	$ 88,061	$ 74,678	$ 76,981	$ 89,148
Operating Profit**(Loss)	(4,183)	(6,528)	(4,739)	(1,166)	(673)
Net Profit	(4,742)	(11,490)	***4,742	(1,214)	(725)
Employment	1,326*	1,080	1,044	900	1100

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*Includes Litton Medical Systems prior to the acquisition by Xonics, Inc.

**Operating profit 1979 is prior to extraordinary items. The $2.4 million income from the Union Carbine Agreement, and $3.3 million XERG writeoff is therefore not included.

Major Problems:

The subsidiaries of Xonics, Inc. which have been adversely affected by imports are Xonics Medical Systems, Inc., Standard X-Ray Company and Medical Equipment Manufacturing Company, Inc., all of which are primarily engaged in the manufacture and sale of medical imaging equipment.

At the present time foreign companies such as Siemens, Philips, Toshiba, Hitachi and CGR have approximately 32 percent and 52 percent of the United States and worldwide markets of conventional X-ray and ultrasound respectively, the two markets Xonics, Inc. is in.

The domestic market for basic X-ray equipment is close to its saturation point and is primarily a replacement market, although new technologies are being introduced.

It is estimated* that in 1979 the basic X-ray equipment amounted to approximately 60 percent of the entire market for medical diagnostic equipment and that the share will drop to 54

*Frost & Sullivan, Inc.: "Advanced Medical Diagnostic Imaging Equipment Market", #A721, Oct. 1979, p.258, Exhibit XXVIII.

percent in 1983 and further down to 50 percent in 1988. An annual real growth of 4 to 5 percent in the basic X-ray equipment market is anticipated.

The company has a well-developed marketing and service system through 30 retail branches throughout the country. With the present level of business, however, the marketing/service system is underutilized, resulting in high overhead cost per unit of sales.

the manufacturing facility is equipped to produce sophisticated X-ray equipment, and the internal efficiency can be increased to ensure lower cost in production. In some cases in involving new products there have been basic design and engineering deficiencies, causing reliability problems and has therefore caused image problems. Some of these deficiencies have already been resolved, and the company is continuously working on solving remaining engineering problems.

The manufacturing facility is adequate to meet the company's competition at this time. The state of technology incorporated in the production equipment can be classed as intermediate as compared to advanced.

The manufacturing controls such as budgeting, cost controls, planning and scheduling, production standards, inventory control and quality control are inadequate or lacking.

The major long term problem for Xonics, Inc. is to ensure continuous R&D in well-formulated areas to keep the company up front in the high technology field. The market for medical diagnostic technology is dominated by international conglomerates, who have the financial strength to invest in R&D on a long term basis with possible pay-offs 5 to 10 years out in the future. The November 1981 acquisition of the SmithKline Ultrasound Division is a possible solution to the R&D problem in that an engineering department having great capabilities was obtained and it is planned that this will be the Corporate R&D Center going forward.

For a smaller company like Xonics, Inc. holding a market share of approximately 6 percent, the present or near future levels of earnings do not allow for a continuous investment of that magnitude and risk.

The company's operational loss for the fiscal year ended March 31, 1981, was substantially less than in the same period of fiscal 1980. Despite the improvements the losses have put a severe strain on the company's cash position. Injection of further funds for immediate working capital needs has therefore become necessary.

Recovery Strategy:

XMS now represents 86 percent of the consolidated group and represents the focal point of the company's recent past and future. Up to the present, the strategy has been to reduce expenses, make the company lean and efficient, as well as improve product mix; i.e., increase sales and production of apparatus. This strategy has taken XMS to a near break even status but to improve further it will be necessary to increase sales, primarily apparatus, which will spead incremental gross profit over the existing field and factory fixed cost base, thereby lowering per unit costs. Since the conventional x-ray market is expected to grow slowly, it will be necessary to increase market penetration of existing products and increase the product line by the development and acquisition of new products to sell. The manufacturing facility is operating at about 50 percent capacity at the present time, which results in a 275 percent burden rate. Additional output will lower the rate further. A new Vice-President of engineering was hired in March 1981, who will have the primary responsibility of developing new products, as well as cost reduction of existing products. The latter will be accomplished mainly through the acquisition of capital equipment to increase vertical integration in the plant and increase efficiencies of current processes.

Through ITA assistance, a project of selecting and implementing a new computerized software package to improve manufacturing and inventory control has begun. The time period involved is 2 years but by proper scheduling of certain applications first, improved efficiency and cash flow (through inventory reduction) can result within a year. RSI continues to operate profitably but increased sales and profits are projected as a result of adding a new externally developed dental processor and internally developed graphic arts chemistry.

Recovery Tactics:

Product/Market Strategy

DIAGNOSTIC X-RAY PRODUCTS: XMS strategy in this area is to provide products of our own manufacture complemented by selected vendor items needed to outfit major hospitals and clinics with working rooms of diagnostic X-ray apparatus. Xonics will participate in two of the three major segments in the marketplace. Specifically, participate in two of the radiographic submarket,radiographic/fluoroscopic submarket and only the low end of the special procedures market; i.e., that portion of the special procedures market which is not related to highly specialized patient position devices. In terms of product features, the strategy is to be at a par to close-follow in the big five category. The advertising strategy relies heavily on word of mouth from satisified users and one major trade show a year. In general, product strategy follows the basic belief that a strong service organization is the single most important criterion used by customers in their decision making process.

SPECIALTY PRODUCTS: This category includes diagnostic ultrasound and XERG. Strategy in the ultrasound area is to sell diagnostic B-scanners of Xonics manufacture to those prospects now called upon for conventional X-ray business. Xonics is close to developing or acquiring an adjunctive real time ultrasound device which would enhance the basic B-scanner offering in the marketplace. XERG, since it is offered only as a dedicated mammography device at this time, will be sold by sales specialists to leading mammographers. The target market for the XERG are those people currently using the now outdated Xerox mammography system.

FILM: X-ray film, which is supplied by four primary manufacturers and sold as a resale item to our end users, will continue to be sold as a way to accomodate the total needs of radiology end users. However, the strategy does not include participation in price wars and the company will strive to maintain an overall 10 percent gross margin and follow a philosophy of never signing a contract with less than 8 percent gross margin in the field operation.

CONSUMABLES: Consumables, which are largely resale in nature, will continue to be sold as a convenience item and to help provide customers with turnkey packages when equipment is ordered through XMS. The sale strategy does not include special emphasis on consumable accounts.

X-RAY FILM PROCESSORS: Film processors, which are manufactured by vendors for XMS, will continue to be sold to round out equipment room orders and to provide a means for obtaining higher margins on the chemical end of the business.

CHEMICALS: Photochemicals, which are manufactured by the RSI subsidiary and which have relatively high gross margin, will continue to be sold as a means of gaining and maintaining presence of new accounts. Several branches are on an aggressive chemical strategy due to the high profit potential in their respective areas. Company strategy shows a preference for selling chemicals of Xonics manufacture. Price and quality are significant competitive advantages in this area.

SERVICE: Service revenue originates from the sale of repair parts and labor billings. Pricing strategy in this area is to maintain prices at a level equal to General Electric, Picker and Phillips. Service revenue potential per serviceman shows a break even at an approximate 25 percent liquidation rate. Beyond 25 percent of applied time per serviceman, income is produced at a very high margin It is the goal within the next 3 years to increase by 50 percent the number of service people generating service billings under maintenance contracts. The company has recently developed and is promoting 1 to 5 year service contracts and providing a bonus to branch servicemen who exceed certain quotos.

Manufacturing Strategy:

The main elements of the manufacturing strategy are:

a. Consolidate the manufacturing process of XMS and Standard under one roof at the plant in Des Plaines.

b. Upgrade to more capital intensive facility (NC controller operations and welding technology) to reduce outside processing and improve labor efficiency and lower product cost.

Research and Development Strategy:

The company pursues a flexible R&D strategy, as its short term earning power does not provide the financial strength necessary to invest in long term R & D commitments. There are basically three R&D areas to cover.

a. Develop microprocessor technology including software expertise (approximately $ 750,000 needed over 3 years if developed internally).

b. Complete the development of a digital processing unit in house by November, 1982. At the present time, digital processing units which are essentially computerization of conventional x-ray images are being purchased from two other manufacturers on an OEM basis. With the addition of the EkoLine, Inc. research facility, the company is developing its own digital system in house which is scheduled for introduction at the Annual Trade Show in November. This should prove a great boost to the companies profit picture (because of the greater margin to be enjoyed) and image of a high technology company as well.

c. Perfect the XERG system (Xonics Electron Radiography), which might represent an even bigger opportunity, because the company believes it still is closer to having a viable unit than any competitor (approximately $ 500,000 needed).

The company will obtain the necessary know-how by developing it internally as far as paragraph b. and c. are concerned. As indicated earlier, the company has essentially brough R & D capabilities through the SmithKline acquisition last November.

Management/Organization Strategy:

The basic objectives to be reached through the company's management/organization strategy is to improve the decision making process and implementation at the operational level in the company, and to improve the internal information and communication systems for providing relevant updated information.

These objectives are being accomplished through--

a. centralizing manufacturing and marketing within the framework created for XMS, by "folding in" Standard and MEMCO at the Des Plaines plant,

b. expanding the computerization of the information system and process internally as opposed to service bureau,

c. creation of a more effective planning and budgeting system, especially in the area of inventory and production activity,

d. ensure overlapping management personnel between subsidiaries to ensure efficient feedback.

Finance Strategy:

Presently the company's strategy as to securing sufficient finances for operations is concentrated on getting longer term loans from external sources, in order to reduce the present financial vulnerability. ITA financial assistance is seen as a likely source in this regard.

Steps Already Taken (The Company's Use of Its Own Resources):

The company has already demonstrated maximum use of its own resources to restore healthy profitability through the below mentioned steps.

a. In June, 1979, the company restructured its debt and equity by--

    1. retiring most of its long term debt at a gain of approximately $10 million, and

    2. agreed to sell notes and warrants of up to $8 million in the next year (which it did)

    In February 1981, the company--

    1. converterted the notes in 2. above to redeemable, convertable preferred stock, and,

    2. obtained a new secured bank line with the Continental Illinois National Bank of Chicago at a rate of prime + 4% and retired existing secured loans with Walter E. Heller & Co. (prime + 6%) and Foothill Capital Corporation (prime + 8%).

    The February 1981, transaction had the effect of reducing annual interest expense by approximately $2 million and increasing available working capital.

b. Has sold off unprofitable subsidiaries and divisions so that the company's marketing effort today is concentrated in one major market.

c. Has successfully instituted cost savings policies which resulted in approximately $2.7 million savings in G & A and selling expenses in FY 1980.

d. Has successfully reorganized top management responsibilities within the corporate structure resulting in savings in general corporate expenses of $1.6 million in FY8

e. Has completed consolidation of manufacturing facilities for Standard and MEMCO with the XMS plant in Des Plaines to provide for better resource utilization.

f. Has acquired 2 major pieces of capital equipment (through leases) with pay-backs of less than 2 years.

Specific Actions to Protect the Interests of Employees:

The recovery plan, including the receipt of financial and technical assistance, is designed to enable Xonics to complete the turnaround and become financially strong. This will enable Xonics to realize its full potential and grow in not only sales and profits but employment as well. At present, employment is around 870 but if projections for 1983 and 1984 are met, employment will grow to over 1000 to handle the additional volume.

On the other hand, if Xonics does not succeed, it is possible that bankruptcy and a cessation of activity would take place, which would mean the loss of all the jobs as far as Xonics is concerned. Aside from General Electric, Xonics is now the only other major X-ray company not owned and operated by foreign interests.

There have been no recent layoffs of any magnitude. A large layoff occurred about 3 years ago when XMS was first acquired. The reduction in employment since that time has occurred primarily through attrition: i.e., employees leaving voluntarily and not being replaced. As a result, no specific unusual action is intended with regard to employees aside from making their jobs more secure by becoming financially strong.

Analysis of Technical/Resources/Assistance Necessary to Implement Strategy

Required Technical Assistance:

Phase I of the technical assistance has recently been completed. Phase I represented the study to determine the companies need as to what type of MRP system is required.

We are now waiting to begin Phase II which is the 2 year implementation of the software and hardware chosen. The consulting costs for Phase II will probably be somewhere in the area of $ 200,000 over two years and represent outside assistance and direction to ensure the successful implementation of the systems specified.

Required Financial Assistance:

The successful implementation of the recovery plan is based on the presumption that financial assistance be made available to the company.

The plan is based on financial assistance totaling $3 million in an ITA guaranteed loan to be used as follows:

a. Working capital needs	$ 2,250,000
b. Loan payment Continental Illinois National Bank and Trust Company of Chicago*	750,000
TOTAL	$ 3,000,000

Further, in FY 1982 the company plans to apply for direct ITA loan amounting to $1 million to finance the additional working capital budgeted for during this period. This is contingent upon the present conditions and assumptions.

Despite the new loan agreement with the Continental Illinois National Bank and Trust Company of Chicago, dated February 1981, the company is still in need of additional working capital. The Continental loan agreement provides up to $15 million based on a formula of 75% of eligible accounts receivable and 10% of inventories. At present, the loan balance is approximately $10 million, which is the maximum amount available under the formulas. Obtaining the $3 million ITA guaranteed loan would have the effect of providing an additional $2,250,00 of working capital to be used primarily to reduce accounts payable which has become excessive since June 30, 1981, due primarily to the $625,000 loss suffered that quarter and the inventory build-up for the 3-week plan shut down in August.

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*The loan payment to Continental is the amount required to repay the current loan to release the fixed assets as collateral to be used as collateral for the financial assistance budgeted for.

Vendor relationships are currently being severly strained and the danger is the loss of favorable credit terms being replaced by C.O.D. or cash in advance, which reduces working capital still further.

Impact of Technical/Financial Assistance on the Company:

The above technical assistance is expected to provide the vehicle to the company for improving its manufacturing efficiency and productivity. It is anticipated that the gradual implementation of the inventory and production control system will save the company approximately $2 million in production costs over a 3-year period. The financial assistanc for the purchase of machinery supports this effort by providing a higher quality product at lower cost and an appropriate and modern production setup.

The financial assistance for working capital will enable managment to devote its time to focusing more on the long term development of the company and institute more rigid manageme objectives and internal control procedures. Presently a disproportionate amount of management time and capacity is being used to solve the company's day-to-day financial problems. Further, the financial assistance for working capital would contribute to improving the short term profitability and reduce the financial vulnerability, as the company on its receivable loan presently pays 4 percent above prime in interest.

In summary, receipt of assistance would enable Xonics to:

a. Plan and implement an improved inventory and production planning and control system.

b. Hire the necessary staff within materials and production management to ensure more efficient manufacturing operations.

c. Acquire the necessary manpower and know-how to ensure the implementation of the R&D program.

d. Complete implementation of the details outlined in the marketing strategy.

e. Secure the necessary financing from external sources to complete these steps and provide the company with sufficient funds for working capital.

The foregoing analysis of the company as well as recovery plan was developed with a substantial amount of assistance and input from Midwest TAAC. We have been working with the people at Midwest TAAC now for two years and have found all of them associated with the project thus far to be not only confident but devoted. Its true that we know our own company well and that when many of their points were mentioned someone would say or think that we already know that. This may be true, but it takes an outsider to actually say it. That is the usual role of the consultant and Midwest TAAC has performed their role well. I must say that when they reviewed our financial projections of two years ago, they thought them to be most optimistic and develop their own which we did not believe in. In retrospect, their numbers were very close to the actual results. That is proof of their objectivity. The technical assistance program is already in place and will prove to be a major benefit to the company. Because of many reasons, we have not received the financial assistance as yet, but funding appears imminent. If we have not had the use of the cash that the financial assistance would provide over the last few years, we have at least held out the hope that it would be forthcoming soon and that has played a major part in our getting this far. Frankly, things were so rough upon occasion that we were almost ready to throw in the towel. But some of us believed that help would be forthcoming in the form of financial assistance from the U.S. Government or elsewhere and as a result, we kept going and we are here today hopefully on the verge of success.

DEPARTMENT OF STATE

STATEMENTS OF:

JOHN CARLSON, MEMBER, INTERNATIONAL COMMITTEE OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

MILTON M. KAUFMANN, DIRECTOR, INTERNATIONAL PROGRAM FOR MARINE MAMMALS AND ENDANGERED SPECIES OF THE FUND FOR ANIMALS

DAVID BURNEY, GENERAL COUNSEL, U.S. TUNA FOUNDATION

ROBERT ENGLEHARDT, VICE PRESIDENT, PALMER COMMUNICATIONS, INC.

Senator Weicker. Next is the panel relating to the Department of State and international programs: Mr. John Carlson, International Committee of the Associated General Contractors of America; Milton M. Kaufmann, director of the International Program for Marine Mammals and Endangered Species of the Fund for Animals, accompanied by David Burney, general counsel for the U.S. Tuna Foundation; and Mr. Robert Englehardt, vice president, Palmer Communications, Inc.

Mr. Kaufmann. My name is Milton Kaufmann.

Mr. Burney. David Burney.

Senator Weicker. This is Mr. Burney that is accompanying you. Mr. Carlson?

Mr. Carlson. Yes, sir.

Senator Weicker. Mr. Englehardt?

Mr. Englehardt. Yes, sir.

Mr. Kaufmann. May I present Mr. Bud Walsh who represents the American Tuna Boat Foundation, to accompany us?

Senator Weicker. What if I said no?

Mr. Kaufmann. He still would be available to you in the room, sir.

Senator Weicker. Go right ahead. Now, gentlemen, we are running a little over here. I have to get out of here onto another committee meeting very shortly. I want to make sure everybody gets heard. Why don't you proceed? Try to hold yourself within the time limitation. All statements will be included in their entirety in the record.

Mr. Carlson. Am I to lead off?

Senator Weicker. Mr. Carlson, go right ahead.

Mr. Carlson. Thank you, Mr. Chairman.

I will read my statement. It is very short, and I will conclude it quite quickly.

My name is John Carlson, vice president of Sundt Corp. Along with its subsidiaries, Sundt Corp. has been in business for over 80 years doing work throughout the United States. We have been working overseas since 1967. We are general contractors specializing in heavy, civil, building, and military works. In addition to our domestic work, we are currently working in Saudi Arabia, Australia, and the Philippines.

I appear today as a member of the international construction committee of the Associated General Contractors of America. This committee represents approximately 50 of the major U.S. general construction companies engaged in international construction work. I am accompanied here today by Jim Thompson, director of AGC's international construction division.

I welcome this opportunity to appear before you today since I believe very strongly that the appropriation you are considering for the construction of a new embassy complex in Saudi Arabia should be restricted to U.S. construction companies or joint ventures of United States and Saudi Arabian companies which are at least 60 percent owned by Saudi Arabian citizens.

In the past, we have been advised that when this money is budgeted, the U.S. Foreign Building Office of the State Department intends to expend these funds by advertising for open competitive bidding. Normally, we have no quarrel with open competitive bidding when all participants enter the competition with equal or nearly equal support and restraint. However, in this case, the American building contractors are at an unfair disadvantage.

In 1976, the United States ranked No. 1 in international construction volume, and, it was also the leader in the Middle East construction market. By 1979, the United States had dropped to 12th place in the Middle East. Recent figures indicate that we have slipped even further behind such countries as South Korea, France, Brazil, Taiwan, and even the Soviet Union. The reasons for this drastic decline in U.S. construction overseas can be summed up in one phrase: U.S. contractors are now competing against foreign governments who provide their national firms with subsidies unmatched by the U.S. Government.

These subsidies take the form of project finance, political risk insurance, grant funding for feasibility studies, counter guarantees for letters of credit issued as bid and performance bonds, more liberal tax treatment of overseas workers and more. Put quite simply, U.S. contractors cannot compete with foreign companies which have enormous and varied types of support from their governments and are not burdened by the disincentives with which we must deal.

I think I will cut reading the rest of it and just give you a few personal comments. I think our Congress has listened in the last few years. It has gone a great way to cut those things under their control in the way of some of the disincentives, although we have got a long way to go.

I think there are other things that the U.S. Government can't do because of our way of life and our belief in the private enterprise system and free ownership of individual outfits, but we cannot compete. The price might be higher on an individual bid, but there is one example.

About 5 years ago in the Kingdom of Yoka in which a British firm was successful, it was around a $98 million contract. The nearest, closest American had been $104 million. By the time they backed out the taxes that had to be put into the job that the U.S. citizens would pay to their government for income tax, for insurance, and both for the corporation, where the British companies did not have have to—the individuals do not—the American company would have come very close.

I don't understand that the benefits flow other ways. We take American individuals that might be out of work and send them overseas have them pay taxes. Instead of being a burden to the Government, they are a benefit. When you get through with the burdens, although the individual price might be higher if you go to restrict American-owned bidders, the cost to our economy and Government is less.

We have a hard time developing the statistics, and that is the most outstanding one and the one I am most familiar with.

The other thing I am pointing out is we are not saying you should spend so many millions of dollars on the embassies. We know the embassy is moving from Mecca to Riyadh. If we are going to maintain a presence there, there will naturally have to be an appropriation. When, of course, is up to Congress. When you do, we are asking that you restrict it to U.S. bidders.

PREPARED STATEMENT

Senator WEICKER. Thank you very much. We will insert your statement in the record.

[The statement follows:]

Statement of John Carlson

My name is John Carlson, Vice President of Sundt Corporation. Sundt Corporation, along with its subsidiaries, has been in business for over 80 years doing work throughout the United States. We have been working overseas since 1967. We are a general contractor specializing in heavy, civil, building and military works. In addition to our domestic work, we are currently working in Saudi Arabia, Australia and the Philippines.

I appear today as a member of the International Construction Committee of the Associated General Contractors of America. This Committee represents approximately fifty of the major U. S. general construction companies engaged in international construction work. I am accompanied here today by Jim Thompson, Director of AGC's International Construction Division.

I welcome this opportunity to appear before you today since I believe very strongly that the appropriation you are considering for the construction of a new embassy complex in Saudi Arabia should be restricted to United States construction companies or joint ventures of U. S. and Saudi Arabian companies which are at least 60 percent owned by Saudi Arabian citizens.

In the past, we have been advised that when this money is budgeted, the U. S. Foreign Building Office of the State Department intends to expend those funds by advertising for open international competitive bidding. Normally, we have no quarrel with open competitive bidding when all participants enter the competition with equal or nearly equal support and restraint. However, in this case, the American building contractors are at an unfair disadvantage.

In 1976, the United States ranked number one in international construction volume and was also the leader in the Middle East construction market. By 1979, the U. S. had dropped to 12th place in the Middle East and recent figures indicate that we have slipped even further behind such countries as South Korea, France, Brazil, Taiwan and even the Soviet Union. The reasons for this drastic decline in U. S. construction overseas can be summed up in one phrase: U. S. contractors are now competing against foreign governments who provide their national firms with subsidies unmatched by the U. S. Government. These subsidies take the form of project finance, political risk insurance, grant funding for feasibility studies, counter guarantees for letters of credit issued as bid and performance bonds, more liberal tax

TREATMENT OF OVERSEAS WORKERS AND MORE. PUT QUITE SIMPLY, U. S. CONTRACTORS CANNOT COMPETE WITH FOREIGN COMPANIES WHICH HAVE ENORMOUS AND VARIED TYPES OF SUPPORT FROM THEIR GOVERNMENTS AND ARE NOT BURDENED BY THE DISINCENTIVES WITH WHICH WE MUST DEAL. WE MUST WALK A TIGHTROPE OF LEGAL RESTRICTIONS DEALING WITH FOREIGN CORRUPT PRACTICES, ANTI-BOYCOTT LEGISLATION, ANTI-TRUST RESTRICTIONS AND MORE. DON'T MISTAKE MY CONCERNS HERE, I AM NOT ADVOCATING THAT THE U. S. GOVERNMENT SHOULD SUBSIDIZE U. S. SERVICE INDUSTRIES ABROAD. OUR PREFERENCE IS THAT THE GOVERNMENT EXPORT DISINCENTIVES BE ELIMINATED OR REDUCED IN ORDER TO RESTORE THE COMPETITIVENESS OF U. S. SERVICES INDUSTRIES BIDDING ON OVERSEAS PROJECTS. ALTHOUGH WE HAVE MADE MUCH PROGRESS IN THE PAST YEAR ON THESE MEASURES, MANY OF THESE PROBLEMS STILL EXIST. IN THE MEANTIME, WE DO NOT BELIEVE IT IS IN THIS COUNTRY'S BEST INTEREST TO SPEND U. S. TAX DOLLARS BUILDING U. S. EMBASSIES WITH FOREIGN CONTRACTORS. WE BELIEVE IT IS ESSENTIAL THAT U. S. CONTRACTORS BE USED.

THERE ARE SEVERAL FACTORS WHICH SUPPORT THE USE OF U. S. CONTRACTORS ON THE SAUDI EMBASSY JOB. FIRST, U. S. TAXPAYER'S DOLLARS WILL BE USED TO FINANCE THE WORK. BY AWARDING THE JOB TO FOREIGN FIRMS, THE EMPLOYMENT, TAX AND TRADE BENEFITS OF THE EXPENDITURES ARE MINIMIZED. ALTHOUGH THE PRICE MAY BE LOWER WHEN THE CONTRACT IS LET TO A FOREIGN FIRM, THE EXPENDITURE CONSTITUTES A NET OUTFLOW OF CAPITAL WHICH DOES NOTHING TO BOLSTER OUR PRESENT TRADE DEFICIT. WHILE CURRENT PROCUREMENT REGULATIONS WILL SPECIFY THE USE OF U. S. MATERIALS, A FEW EXTRA DOLLARS MAY GIVE U. S. CONTRACTORS AN OPPORTUNITY TO REGAIN EXPOSURE IN THIS MARKET AREA, THEREBY LEADING TO FUTURE CONTRACTS FINANCED BY OTHER GOVERNMENTS. IN THAT CASE, THE RETURNS TO THE U. S. ECONOMY WOULD BE SIGNIFICANT.

SECONDLY, SAUDI ARABIA IS NOT AN UNDERDEVELOPED NATION. THERE IS NO ELEMENT OF DEVELOPMENT ASSISTANCE HERE AIMED AT SUPPORTING THE HOST COUNTRY'S INDUSTRIES. IN FACT, I AM NOT AWARE OF MANY LOCAL SAUDI CONTRACTORS CAPABLE OF PERFORMING THE WORK. BY OPENING THIS PROJECT TO INTERNATIONAL COMPETITIVE BIDDING, THE U. S. GOVERNMENT WILL LIKELY BE DEALING WITH KOREANS GIVEN THE TRACK RECORD OF RECENT GOVERNMENT AND MILITARY CONTRACTS SUPERVISED BY THE U. S. GOVERNMENT IN SAUDI ARABIA. AT THIS POINT, ONE SHOULD CONSIDER THE NATIONAL SECURITY IMPLICATIONS OF BUILDING A U. S. EMBASSY IN THE VOLATILE REGION OF THE MIDDLE EAST. FROM THE STANDPOINT OF COMPETENCY AND FUTURE SUPPLIES, ETC., HAVING A U. S. CONSTRUCTION FIRM PERFORM THE WORK INSURES THE

QUALITY AND SECURITY PRECAUTIONS NECESSARY IN THIS PARTICULAR TYPE OF PROJECT. IN TODAY'S CHANGING GEOPOLITICAL ENVIRONMENT, OUR NATION'S MILITARY CONSTRUCTION NEEDS OVERSEAS COULD INCREASE DRAMATICALLY IN A VERY SHORT PERIOD OF TIME. AT SOME POINT IN THE NEAR FUTURE, WE MAY FIND THAT OUR FOREIGN SUPPLIERS ARE NO LONGER IN A POSITION TO SERVE OUR NEEDS. IT IS THEREFORE VITAL THAT THE U. S. CONSTRUCTION INDUSTRY MAINTAIN A STRONG AND VIABLE PRESENCE IN THE GLOBAL MARKETS. IF THERE IS EVER A NEED FOR GENERAL MOBILIZATION, THE AMERICAN CONSTRUCTION INDUSTRY IS THE MAJOR ONE CAPABLE OF RESPONDING IN TIME AND WITH THE CERTAINTY THAT SUCH AN EFFORT DEMANDS. MR. CHAIRMAN, I KNOW YOU CAN APPRECIATE THAT THE MIDDLE EAST MARKETS, DUE TO THE INCREASINGLY STIFF FOREIGN COMPETITION, ARE DIFFICULT FOR U. S. FIRMS TO PENETRATE, LET ALONE RECAPTURE.

MR. CHAIRMAN, IT IS OUR OPINION THAT THE CONSTRUCTION OF OUR EMBASSY IN SAUDI ARABIA BY A SUBSIDIZED NON-U.S. CONTRACTOR WOULD REFLECT UNFAVORABLY BOTH ON THE IMAGE OF U. S. INDUSTRIAL CAPABILITY AND ON OUR RESOLVE IN PURSUING THE ELIMINATION OF UNFAIR, ANTI-COMPETITIVE PRACTICES WHICH IMPOSE INEQUITABLE HANDICAPS ON U. S. FIRMS IN WORLD TRADE. FOR THIS REASON, WE ASK THAT THIS COMMITTEE RESTRICT THIS APPROPRIATION TO U. S. OR MAJORITY SAUDI ARABIAN-OWNED SAUDI ARABIAN COMPANIES IN JOINT VENTURE WITH A U. S. COMPANY.

STATEMENT OF MILTON M. KAUFMANN

Senator WEICKER. Mr. Kaufmann.

Mr. KAUFMANN. Chairman Weicker, I will read the first page of my statement and then I will summarize to stay within the 5 minute time limit as you asked. I will keep my comments to 3 minutes to give the three gentlemen accompanying me time to make comments as they desire to do so.

I am the director of the Fund for Animals' International Program for Marine Mammals and Endangered Species and I am speaking on behalf of the president of the Fund for Animals, Cleveland Amory. The Fund for Animals is an international wildlife conservation and animal welfare organization with over 200,000 members, most of whom are in the United States.

I am also president of Monitor International and a member of the board of directors of the Monitor Consortium–USA. I am accompanied by Mr. David Burney, general counsel, U.S. Tuna Foundation and Mr. Bud Walsh of the American Tuna Boat Association. These organizations support my testimony in its entirety.

I am also speaking for 19 U.S. conservation organizations including the Connecticut Cetacean Society; the Sierra Club; National Wildlife Committee; National Audubon Society; Environmental Defense Fund; in short, the organizations which have fought the battle over the past several years to reduce the kill of dolphin by tuna fishermen in the east and tropical Pacific.

I mention this as a historic occasion, sir. This is the first time that the two tuna associations have met in a mutual respectful way, still as adversaries. The western industry and the wildlife conservation has to come to you, the U.S. Congress, and asked you to do the same thing. We have complete support of the industry and conservation committee in what we are asking you to do.

The purpose of my appearing before you is to request that you increase the State Department's budget estimate request for the U.S. share of the funding for the Inter-American Tropical Tuna Commission for fiscal year 1983 by $500,000 and reprogram back $500,000 into the Inter-American Tropical Tuna Commission fiscal year 1982 budget. This increase will restore the U.S. contribution to the level of recent years which continued through fiscal year 1981.

The reduction proposed by the administration for fiscal year 1983 reflects action already taken by the State Department for fiscal year 1982 in reprograming $500,000 out of the U.S. fiscal year 1982 contribution to the IATTC.

I will leave my prepared comments at this point, sir, and summarize.

The American public has been concerned, as you well know, since 1971 when the Marine Mammal Protection Act began to work its way through the U.S. Congress. That act was passed by the Congress. It is now recognized as perhaps the most advanced statutory statement of an environmental effort that any country has produced. We thank you Senators and Congressmen for that act and your kind support over the years.

We are grateful to you for your support of wildlife oonservation. That act had a provision which required the U.S. tuna industry to make maximum efforts, over the years, to reduce the kill of dolphin. I think I have a success to report to you. The average number killed prior to the Marine Mammal Protection Act was on the order of a magnitude of 350,000 per year. Last year, the kill was 40,000; down from 350,000 to 40,000. Of that, less than half of that was the responsibility of the U.S. tuna fleet.

Although the U.S. tuna fleet now comprises less than half—well, it is about half of the total number of fishing boats in the international fleet, their responsibility for less than half of the kill were to—the foreign flag fishing boats are responsible for more than half. That brings us to the whole reason of my testimony before you.

We can handle the U.S. Government house on continuing to reduce this kill, certainly, to prevent it from getting any higher, through the international porpoise conservation program of the Inter-American Tropical Tuna Commission. This reduction, which has already taken place in this current fiscal year and will be repeated again, if your committee can work to restore it, will mean that at least half of the international propoise conservation program has to be a battle. The international program today compared to the U.S. program is at least as important and maybe more important.

There are more observers in the international observers program right in the total fleet than there are U.S. observers in the U.S. fleet.

The International Tropical Tuna Fishing Center has done an excellent job in contriving a program. I would like to ask that the annual report on what they did last year be entered into the record.

Senator WEICKER. That will be included in the record at this time.

[The information follows:]

TUNA-DOLPHIN INVESTIGATION: BACKGROUND PAPER NO. 6; 38TH MEETING OF THE IATTC, OCTOBER 1981: INTER-AMERICAN TROPICAL TUNA COMMISSION

DATA COLLECTION

The methods used in determining the design for sampling international purse seine trips for 1981 involved arbitrarily dividing the calendar year into three intervals. Allocation of the number of trips by the flag vessels of participating countries to these intervals was accomplished by using a sampling design which minimized the variance of the estimate of the total kill of dolphins by the participating fleets. The countries whose fleets were included in the sample were the member nations Panama and the United States (Canada, France. Nicaragua and Japan were excluded because they currently do not have purse-seine vessels operating in the eastern Pacific surface fishery) and the non-member nations Costa Rica and Venezuela. In addition, Mexico and the Commission have been working on an agreement under which Mexico will also participate in the program. In anticipation of this agreement an arbitrary number of trips were also allocated for Mexican seiners. The number of trips scheduled for each country and the number of trips completed or currently in progress are as follows.

Trips scheduled

	Interval I	Interval II	Interval III	Total
Costa Rica	0	2	1	3
Mexico	6	7	7	20
Panama	2	3	2	7
U.S.A.	25	19	27	71
Venezuela	0	2	1	3
Total	33	33	38	104

Trips completed or in progress (as of October 2, 1981)

	Interval I	Interval II	Interval III	Total
Costa Rica	0	1	0	1
Mexico	0	0	0	0
Panama	1	1	0	2
U.S.A.	19	15	14	48
Venezuela	0	0	0	0
Total	20	17	14	51

Several factors have contributed to the difference between the number of trips planned and the number sampled thus far. These include delays in the finalization of an agreement with Mexico, the transfer of vessel registry from one nation to another, internal difficulties experienced by participating nations, vessels selected for sampling fishing in areas other than the eastern Pacific and the sinking of certain vessels selected for sampling.

ESTIMATED DOLPHIN MORTALITY For 1981

As of October 2, 1981 the data from 39 completed trips, including 6 which commenced in late 1980, have been examined. The sampled vessels made a total of 1003 sets on tuna associated with dolphins in 1981, and the following mortality by species was observed:

Offshore spotted dolphin	2410
Eastern spinner dolphin	339
Whitebelly spinner dolphin	631
Unidentified spinner dolphin	35
Common dolphin	110
Striped dolphin	11
Others	8
Unidentified dolphins	35
Total	3579

Provisional estimates of the total mortality incidental to purse seining by the US fleet for the period January 1 - September 27, 1981 are as follows.

Offshore spotted dolphin	9774
Eastern spinner dolphin	1093
Whitebelly spinner dolphin	3141
Unidentified spinner dolphin	58
Common dolphin	971
Striped dolphin	50
Others	25
Unidentified dolphins	108
Total	15220

These estimates have been made by the US Porpoise Rescue Foundation from data collected by Commission and US National Marine Fisheries Service (NMFS) technicians aboard US purse seiners certified to fish for tuna associated with dolphins. Data from incompleted trips are included through a system of regular reports by radio of cumulative kill.

Currently, data are only available from two non-US trips, although it is anticipated that a total of five trips will be sampled during 1981. Consequently, it is unreasonable to calculate estimates of total mortality for the non-US fleet at this time. The precision of estimates from such a small sample is extremely poor and the sample itself is not representative of the entire non-US fleet. To be able to make precise, representative estimates of total mortality incidental to purse seining by the non-US fleet, a larger number of trips from more of the national fleets which fish in the eastern Pacific needs to be sampled. Despite continuing efforts, Commission staff have been unable to secure the placement of technicians on more non-US trips.

ESTIMATED DOLPHIN MORTALITY DURING 1980

In this analysis, 1980 data from both the IATTC and NMFS programs have been used, including observed trips aboard seiners from Costa Rica (3), New Zealand (1), Panama (2), the United States (98) and Venezuela (2). During the year, seiners from Bermuda, Cayman Islands, Costa Rica, Ecuador, Republic of Korea, Mexico, Netherlands Antilles, New Zealand, Panama, Senegal, Spain, the United States and Venezuela made sets on dolphins in the eastern Pacific Ocean and the total number of dolphin sets from these boats is used for making estimates of mortality. The data from one US observed trip which made sets in 1980, but did not finish until mid-1981, was not used since it was not available at the time that this analysis was made.

Because of the differences in sampling intensity and regulations for seiners from the US compared to those of other countries, the data were split into two groups, one for the US and one for the other countries. In the latter group only four countries agreed to participate in the sampling program. These accounted for 30% of the sets on dolphin which were made by all non-US seiners. Thus the estimates given for non-US seiners are made by extrapolation from the results from seiners in the sampled population to the whole.

IATTC and NMFS data were similar in that the estimates included only animals known to be killed. It is possible that some of the animals which were injured during the set died later. There are differences in the definitions used by NMFS and IATTC of what constitutes a fishing trip. These differences cause the number of sample trips for seiners from the US to be undercounted by up to two trips. This does not affect the estimates of mortality, but results in the estimates of standard errors for the US being overestimated by about 2%.

Table 1 gives a summary of the data: sub-divided into four strata US, non-US; successful sets (in which at least 1/2 ton of yellowfin and/or skipjack tuna was captured) and unsuccessful sets.

The distribution of dolphin mortality is badly skewed and confidence intervals based on normal distributions are unlikely to be accurate. To obtain an estimate of the sampling distribution of the mortality estimates a Monte-Carlo simulation was carried out by repeatedly sampling from a population consisting of 167 trips with successful sets which were observed by IATTC and NMFS technicians during 1978 and 1980. This population was midway in size between the populations for the US and non-US seiners in 1980. Samples of 8 and 55 trips were randomly selected for spotted and common dolphins. This process was repeated 100,000 times and sampling distributions calculated for mortality estimates.

All the successful and unsuccessful dolphin sets that were made during a trip were treated as a cluster sample. In addition to stratifying by country and fishing success, the trips were also stratified by the number of sets per trip to examine the effect of variation in the number of observations per cluster which could cause biased estimates. Table 2 shows that stratification had little effect on the estimates but did reduce the standard deviation of the estimates. For each of the four original groups a stratification was chosen which minimized the variance of the total kill. The resulting estimates and standard deviations are shown in Tables 3 and 4.

Table 5 shows the Monte-Carlo estimates of bias in the standard error and the 95% confidence intervals. The estimates of the standard errors are biased downwards and the confidence intervals are asymmetrical and wider than plus or minus two standard errors. These characteristics are much more marked for small samples than for large samples, and for common dolphins than for spotted dolphins. For estimates for common dolphin using samples of 8, 11% of the estimates of kill were zero and thus there was no lower 95% lower confidence limit.

About 40% of the US trips which contributed to dolphin mortality were sampled in 1980. For spotted dolphins this sample gives an estimated coefficient of variation of 14% and approximate 95% confidence limits of about ±30% of the estimate. For common dolphins the coefficient of variation is 37%, giving approximate 95% confidence limits of ±75% of the estimate, which is less satisfactory. For the non-US fleet only about 5% of the trips were sampled in 1980. The Monte-Carlo results suggest that for samples of this size the symmetrical confidence limits are no longer useful. Using the empirical intervals for samples of eight trips the 95% intervals for combined successful and unsuccessful sets would be (8,000-20,000) and (0-21,000) for spotted and common dolphins respectively. These are only good enough for rough estimates of mortality. The US and non-US fleets now make approximately equal numbers of sets on dolphins and it is clear that more trips must be sampled from the non-US portion of the fleet if precise estimates of total mortality are to be obtained.

COMPARISON OF DOLPHIN "OBSERVER" AND TUNA BRIDGE LOG DATA

Since the mid 1950s, the Commission has collected data from the international tropical tuna fleet in the eastern Pacific by extracting information from the bridge logs of as many vessels returning from fishing trips as possible. Since the early 1970s, the US National Marine Fisheries Service (NMFS) has collected data from US vessels which fish for tuna associated with dolphins by placing scientific technicians ("observers") aboard a random sample of these vessels. In 1979, the Commission initiated a similar program of data collection from the international fleet. Some of the information in the observer data can be compared to some of the information in the bridge log extracts.

This has been done for the years 1976-1979 for those vessels which carried an observer (NMFS or IATTC) and for which the bridge log was available to the Commission. In particular, differences between the two sets of data in the mean catch-per-set and in the proportion of total sets made on tuna associated with dolphins have been examined using a generalized linear model. The data were stratified by time (year or quarter), area (inside or outside the Commission Yellowfin Regulatory Area) and source of information (dolphin "observer" data or bridge log extracts).

Small differences in mean catch-per-set and proportion of "dolphin" sets were found to be attributable to the source of data in 1976 and 1977. In 1978 and 1979, however, the effects of time and area were found to be stronger and no significant differences were attributable to the source of data.

ESTIMATING THE TOTAL NUMBER OF "DOLPHIN" SETS

The total number of purse seine sets made on tuna associated with dolphins for any given year is unknown because Commission data extracted from fishing vessel bridge logs are incomplete in this respect. Set types (dolphin or non-dolphin) have not been recorded for many sets, particularly for fishing trips made before 1975. In addition, the Commission has not been able to extract data from every fishing trip in each year. This results in a loss of information which has become most important in recent years.

A method has been developed to estimate the number of dolphin sets from logbook records in which set types have not been recorded (unknown sets). This method is based on "nearest neighbor" concepts and uses (i) the set type of the nearest set of known type in both time and distance to each of the unknown sets, (ii) the distance in nautical miles to the nearest set of known type and (iii) the proportion of sets of known type having the same type as their nearest neighbor.

The number of dolphin sets from trips not covered by the logbook data has been estimated from the proportion of the catch of yellowfin tuna not covered by the logbook data. Estimates for the years 1959-1980 are given in Table 6.

AERIAL PHOTOGRAPHIC STUDY

Uncertainties about present age-structure data for dolphin populations in the eastern tropical Pacific make it difficult to draw firm conclusions about reproductive rates of the populations. While the proportion of dolphin calves in a population can be estimated from mortality data collected aboard purse seiners, these data may not be representative of the population. There is evidence to indicate that selective mortality may result in the youngest age classes not being properly represented in the sample. Accurate reproductive rates are required in order to improve estimates of net productivity for dolphin species affected by the tuna fishery.

Recent technological advances in the use of aerial photography in dolphin population censusing have provided a possible alternative method for estimating reproductive rates. Results from the Commission's 1979 research cruise of the M/V GINA ANNE indicate that dolphin lengths can be measured from aerial photographs so that length frequency distributions of dolphin species can be created by measuring each individual in photographed schools. From these data, estimates of reproductive parameters can be calculated although their precision has yet to be determined. This technique eliminates the age selectivity inherent in data from animals killed in purse seine sets.

An aerial photographic survey was conducted by the Commission off the west coast of Mexico to acquire length frequency data on dolphin stocks in the eastern tropical Pacific. The major objectives of the study were:

1) to determine the length frequency distribution for dolphin species encountered; primarily spotted dolphins (*Stenella attenuata*), spinner dolphins (*S. longirostris*), and common dolphins (*Delphinus delphis*);
2) to determine whether length frequency estimates from aerial photography can provide useful information to aid in the differentiation of stocks and to determine the degree of variability in length frequencies between schools of the same stock,
3) to increase the understanding of dolphin social structure;
4) to collect a sample of observer and photographic school size estimates for comparison;
5) to determine whether dolphins have species - specific reflectance characteristics ("spectral signatures") which would allow positive identification of species from aerial photographs;
6) to refine aerial photographic techniques.

Twenty-four flights were conducted between 6 November and 15 December, 1980 from five Mexican airports: La Paz (3 flights), Puerto Vallarta (1 flight), Acapulco (10 flights), Zihuatanejo (3 flights), and Tapachula (7 flights). The survey aircraft typically carried four observers and two pilots. The scientific party was comprised of personnel from the Commission and the U.S. National Marine Fisheries Service (NMFS). A biologist from the Instituto Nacional de Pesca of Mexico participated in the flights from Acapulco. The photographs taken from three types of camera system are being used in the analyses described above. Flight paths were chosen to cover areas of high concentrations of dolphin schools (Figure 1). Large, tightly-bunched schools of spotted, spinner, or common dolphins were favored for photography since scattered schools were usually too spread out to capture all the animals in the frame.

A total of 100 cetacean schools were photographed during the study, including 11 schools of spotted dolphins, 27 schools of spinner dolphins, 20 mixed schools of spotted and spinner dolphins, and 15 schools of common dolphins. The sighting distributions of photographed schools off Acapulco, Zihuatanejo and Tapachula (86% of the sample) are shown in Figure 2 (a) and (b). Off Tapachula, dolphin schools near the coast were associated with abrupt changes in bottom topography (Figure 2b). Off Acapulco and Zihuatanejo, where coastal schools were less frequently sighted and were often unsuitable for photography, most schools were not associated with these abrupt changes (Figure 2a).

Not all of the schools photographed can be used for the analyses since transparencies may be of poor quality if water penetration was bad due to glare or rough sea conditions, the dolphin schools dived or swam low, the images were blurred, or the cameras failed.

Photographic transparencies have been catalogued and rated on suitability for measurement of dolphin lengths. Suitable transparencies for length frequency analysis required that the images be crisp and clear, the animals be swimming level at or near the surface, that both rostra and tails be visible, and that few, if any, animals were diving, as indicated by the field notes and by inspection of the transparencies. It is anticipated that about 43 schools, comprising over 36,000 animals, will be measured using a mono-comparator. Of these 43 schools, 3 are spotted dolphin schools, 22 are spinner dolphin schools, 9 are mixed schools of spotted and spinner dolphins, and 2 are common dolphin schools.

Graphic presentation of the physical locations of dolphins within a school, combined with the length data, will give insight into social relationships of the age-classes and sub-groups within a dolphin school. Areas to be examined include those concerning school formations, placement of various age-classes (particularly calves) within the school, nearest neighbors of various age-classes, and formations and compositions of sub-groups.

Forty-three schools have been counted to obtain a sample of school sizes. Photographs were chosen that were clear and contained the vast majority of the school at or near the surface. Estimates of school size based on photographic counts are being compared with observer estimates made from the aircraft.

Multispectral sets of photographs were taken of 33 schools, of which 30 will be used for analysis. Species specific differences in absorption of different wavelengths of light may be useful for the identification of species. Fifteen schools were also photographed with a filter combination designed to test water penetration and six of these schools will be useful for analysis.

DOLPHIN RADIO-TRACKING STUDY

Radio-telemetry has become a valuable research technique for studying the movements and activities of cetaceans and such information is needed for the management of dolphin species involved in the tuna purse seine fishery. One major difficulty in tracking pelagic dolphins, particularly for long-term studies, is the huge expense involved in using large oceanographic or fishing vessels as research platforms.

A study was conducted to test the feasibility of using a sailboat for radio-tracking dolphins. It was also intended to assess the potential usefulness of some of the currently available telemetry equipment. These techniques were to be assessed for eventual use on *Stenella* populations in the eastern tropical Pacific. Such techniques may help elucidate aspects of dolphin biology and, in conjunction with simultaneous sonic-tracking of tuna, the nature of the tuna-dolphin bond.

The Kona coast of the island of Hawaii was chosen as a study site because of the readily available coastal populations of spinner dolphins (*Stenella longirostris*) and spotted dolphins (*S. attenuata*), and because of the opportunity to co-ordinate with research projects on spinner dolphin behavior conducted by the University of California at Santa Cruz (UCSC) and the US National Marine Fisheries Service (NMFS). The study was conducted from 17 April through 27 May 1980.

A 13 m ketch-rigged sailboat was chartered for the radio-tracking and behavioral observations. Dolphins were captured by the NMFS and UCSC teams, fitted with radio transmitters and released. The transmitters had a range of about 4 km with the receiving antenna mounted 16 m above the deck. Tracking was done under sail whenever possible but, when required, the engine was used in order to keep up with the dolphins.

During fifteen days of capture effort aboard the UCSC boat, one spinner dolphin and one spotted dolphin were caught, radio-tagged, and released. Little time was spent tracking these animals from the sailboat due to premature loss of signals. Both dolphins were resighted after the loss of the signal, and the antenna was broken on one, and possibly both, transmitters.

A 178.6 cm female spotted dolphin (RT-2) was captured and radio-tagged by NMFS staff at 1205 h on May 15 (Figure 3) as part of a separate study on dolphin surfacing behavior. Tracking from the sailboat commenced when signals were received at 2353 h. The dolphin was tracked over a period of 5 days before the signal was lost. The animal was not resighted after the loss of the signal, and the cause of signal loss could not be determined.

The motor was used 19% of the 28.2 h spent in positive radio contact with RT-2. The motor was required when the wind speed or direction was not sufficient to keep pace with the dolphins, to charge batteries, and occasionally to steady the boat.

The average hourly traveling speed of RT-2 was 1.7 knots, ranging from almost zero up to burst speeds of 6 knots. Higher traveling speeds than those recorded in this study have been recorded in the eastern Pacific by Leatherwood and Ljungblad (1979). These higher speeds probably reflect post-capture flight and attempted avoidance of the tracking vessel, but such speeds could pose a serious problem for tracking with a sailboat in the eastern tropical Pacific.

Since the radios only transmitted when the antenna broke the surface of the water, dive intervals could be calculated by recording the time of each surfacing. A total of 9.7 h of dive times were collected during the 28.2 h of tracking RT-2. Diving patterns can be suggestive of activities, although not enough data are available to determine daily activity cycles. A pattern of regularly occurring short dives occurred while the animal was apparently cruising slowly or meandering at the surface and was observed between 0030-0130 h and between 0700-0930 h on 16 May (Figure 4, type 1). A pattern of slightly longer dives was often observed while the dolphins were moving rapidly, although occasional exploratory diving probably occurred as well (Figure 4, type 2). A diving pattern consisting of a long dive (>1.5 min) followed by a series of short dives (<10 s) may be correlated with feeding activities. This pattern was observed when the dolphin was milling over an area where the bottom contour dropped off sharply from 100 to over 500 fathoms and occurred at 1400 h on 18 May and between 1900-0100 h on 19-20 May (see e.g. Figure 4, type 3).

Caution must be taken in interpreting the above results since much of the tracking in this study and all of the tracking in the Leatherwood and Ljungblad study occurred at night when behaviors could not be directly observed. Inferences about activities based on diving patterns, traveling speeds, and locations, are a very useful aspect of radio-telemetry but more direct observations of dolphin behavior are needed to test our deductions.

The following conclusions were drawn from the experiment. The 4-km range of the hybrid transmitter/receiver system would be inadequate for sailboat tracking of pelagic dolphins, although this system has been used successfully when mounted atop the crow's nest of a tuna seiner (Powers et al., 1979). Current alternative systems have different advantages and disadvantages since compromises must be struck between package weight, longevity, range, and automatic direction finding capability, and potential injury to the dolphin. Short-term radio-tracking (three weeks or less) is possible with currently available equipment, but longer term studies (of two-months duration or more) will require new systems or better attachment techniques. Tracking by sailboat in co-ordination with a satellite telemetry system may be possible in the future.

The feasibility of using a sailboat for long-term studies of pelagic dolphins depends mainly on the range and speed of the vessel. From the data obtained from this study, the required fuel capacity of such a vessel would be at least 1104 liters. Sailboats in the 12-18 m length class are available with 1135 liter built-in fuel tanks, and a fuel bladder can increase capacity by up to 757 liters.

Hawaiian spinner and spotted dolphins typically did not react in response to the sailboat's approach under both sail and power, however, this may not reflect the behavior of dolphin schools in the eastern tropical Pacific. Behavior in reaction to large power vessels by dolphins that have been affected by the tuna fishery may be minimized if a sailboat is used. The capability to approach these dolphin schools closely would allow the simultaneous tracking of dolphins and tuna, and the collection of data on daily activity and diving patterns and social structure.

ABUNDANCE ESTIMATION OF DOLPHINS

Overview of Research

The goal for research on abundance estimation is to develop a methodology which will provide accurate and precise estimates of abundance which can be used to assess the status of the dolphin stocks to "assure their survival in perpetuity", as required by the Commission. These estimates would preferably be of absolute numbers of dolphins, but if this were not possible a less satisfactory goal would be to obtain a relative index of abundance.

The investigations which are being undertaken fall into the following three categories: (1) examining and attempting to measure potential biases of estimates of abundance derived from data collected by scientific technicians aboard purse seiners, (2) making tentative estimates of abundance of the principal stocks from these same data with the realization of the potential problems which might affect the estimates and (3) examining sampling strategies and expected precision from designed surveys within given cost constraints.

Since the inception of the tuna-dolphin program, the staff have concentrated on the first two of these categories. This is because the tuna vessel sampling program provides an extensive cost-effective data base from which levels of incidental mortality, reduction of mortality by improvement of fishing gear or techniques, dolphin behaviors as well as measures of abundance can be investigated. Several studies have been conducted so far concerning abundance estimation. These include an examination of the estimation of school size from a chartered purse seiner (M/V GINA ANNE in Oct./Nov. 1979) and the subsequent development of training films for school size estimation and an initial estimation of the abundance of the principal stocks of dolphins affected by the fishery using data collected by US technicians and supplied by the US NMFS. In the latter investigation, attention has been concentrated on the eastern spinner dolphin which is thought to have experienced the heaviest exploitation in the past. Estimates for eastern spinners from 1974-1979 were given in the 1980 background paper and are updated to include those for 1980 in the following section. It has become apparent from these analyses that there are many problems in making estimates of abundance from the tuna vessel data. Therefore, staff are also examining the possibility of performing designed surveys to eliminate many of the biases. This involves investigating sampling strategies and determining the precision which can be obtained.

Assessment of Eastern Spinner Stock

The estimates of abundance which will be presented in this section have been made from data collected by US scientific technicians aboard tuna vessels. They collect the following information for population estimation: 1) distance searched along the line of travel, 2) species composition of sighted dolphin schools, 3) estimates of the school size, 4) distance to the school at the time of sighting and 5) bearing of the school with respect to the line of travel. These latter two elements are used to calculate the perpendicular distance from the sighted school to the line of travel.

Abundance estimates are obtained from these data on the basis of line transect sampling. This method is based on the idea that the probability of detecting a school is a function of the perpendicular distance from the school to the line or travel. This function is estimated from the observed set of perpendicular distances, and its value at the origin ($f(0)$) provides the basis for density estimation. For the density estimates calculated in this paper the Fourier series estimator, a cosine series, has been used to estimate this function. It has been shown to be a generally useful estimator with a variety of robustness properties (Burnham *et al.*, 1980). The method and its assumptions were discussed in detail in the 1980 background paper and will not be discussed further here.

The data were stratified into areas for the analysis (Figure 5). Area A1 in this figure represents the region believed to be inhabited only by the eastern stock of spinner dolphins. Area A2 is the region where the eastern spinner range overlaps with the whitebelly spinner range. Area A3 is the region believed to be inhabited by Costa Rican spinners. These areas have been treated differently in the analysis. Area A3 has been ignored as it is assumed that eastern spinners do not occur there. In area A1, all sightings of unidentified spinner dolphins have been assumed to be eastern spinners. In area A2, two estimates of density have been made, one assuming that all unidentified spinner sightings are of eastern spinners and one assuming that none are. The true estimate can then be expected to lie between these extremes.

Figure 6 shows estimates of the density of schools of eastern spinner dolphins for the years 1977 through 1980. Two estimates are given for each year. The higher one includes all unidentified spinner schools in area A2 and the lower one does not. The best estimate of the density of eastern spinner schools will lie between these two extremes. There is little information to give an indication of the proportion of unidentified spinner schools in area A2 which are eastern spinners, and no assumptions have been made concerning this.

Figure 7 shows estimates of the number of animals for 1977-1980. These have been calculated by multiplying the density of schools in each of the two areas by the associated estimate of mean school size and by the size of the area, and summing them. Again, two estimates are given for each year and these are analogous to those in Figure 6.

Figure 8 gives estimates of the overall average school size made by the scientific technicians. These are simply the values from Figure 7 divided by the corresponding values from Figure 6. It illustrates the affect that estimates of school size have on the estimates of the number of animals.

In the 1980 background paper, only the estimates from 1977-1979 were available and it appeared that the population size could have been declining. The estimate from the 1980 data is near the level of 1977 which reduces somewhat the concern about the population. However. the variability in these estimates indicates that they are probably subject to biases from year to year variation as well as a large sampling variation. Therefore, ways of eliminating the biases are needed and a longer series of annual estimates will be necessary to ascertain any long term trend.

GEAR PROGRAM

Fishermen workshops

In the past year, one dolphin mortality reduction workshop was held for Mexican fishermen in Ensenada during two consecutive days in January. Approximately 120 people attended the workshop and heard presentations on methods of reducing dolphin mortality, the Commission's anchored raft project, and the status of the tuna stocks in the eastern Pacific Ocean. The Departamento de Pesca of Mexico gave presentations on their tuna-dolphin program and the Atlantic bluefin tuna fishery. The workshop was held in co-ordination with the Instituto Nacional de Pesca de Baja California Norte.

Extension work

The gear staff traveled to Panama for two weeks in late December to visit vessels of the international fleet that were in port prior to the first trip of the year. Dolphin release gear and procedures, gear problems, dolphin mortality levels, and Commission projects were discussed with captains and crew members. These topics were also discussed with captains and crew during regular visits to vessels in San Diego.

During the year, the gear staff held individual meetings with the captains of four vessels that had experienced high dolphin mortality rates as indicated by technician data. In three of the cases, a problem with the vessel's dolphin safety panel was identified as a major contributor to the high mortality. On the other vessel, the captain attributed the high mortality to abnormal dolphin behavior.

A US National Marine Fisheries Service (NMFS) film concerning the prevention of dolphin mortality during tuna seining operations is available from the Commission in video cassette form with Spanish narration. The film is being distributed free of charge to vessels with video equipment and Spanish-speaking crews. Thus far, 23 vessels have been given the film. An estimated 76 US vessels have been given an English version of the film by the US Porpoise Rescue Foundation.

Dolphin safety panel use

The breakdown of dolphin safety panel types presently used by the 184 size class 4, 5, and 6 tuna purse seiners of the international fleet that are equipped to fish for tunas associated with dolphins and have fished in the eastern Pacific Ocean in 1981 is as follows:

Equipped with superapron and fine mesh safety panel (all 1-1/4 inch mesh)	106
Equipped with fine mesh safety panel only	
1-1/4 inch mesh	55
1-1/2 inch mesh	2
Equipped with 2 inch mesh Medina Panel	4
Not equipped with any dolphin safety panel	8
Unknown gear	9
Total	184

It is likely that some vessels changed gear during the year without the Commission's knowledge. Only four of the above vessels are known to have changed gear. Two of the vessels that currently have superaprons had only the 1-1/4 inch mesh safety panel at the beginning of 1981, and one vessel that now has a superapron had no panel at the beginning of the year. One vessel that now has no safety panel previously had a 1-1/4 inch mesh safety panel.

The eight vessels that are thought not to have a dolphin safety panel do not necesarily fish for tunas associated with dolphins, although the vessel may be equipped to do so.

Raft project

Five rafts were anchored in the eastern Pacific Ocean during the fall of 1980 in an experiment to test the feasibility of anchored fish aggregating devices as an alternative fishing method. A drawing of the raft and anchored system is shown in Figure 9. It was hoped that the rafts would attract tunas in sufficient quantities to support successful commercial purse seining. Such devices, if successful in attracting larger yellowfin tuna, could be deployed in known areas of fishing for tunas associated with dolphins, possibly reducing fishing pressure on the dolphin stocks in those areas.

The rafts were deployed from late August to early November outside the 200 mile fishing zone of any country. Purse seiners of the international fleet were notified of their positions and asked to supply the Commission with information concerning any checks made on the rafts or tuna catches made in association with them.

Reports concerning the rafts were received until May of this year when it became apparent that all five were missing from their moored positions. The Commission has not received any information concerning the causes of the rafts' loss. The two most likely causes of their loss are mooring line failure and tampering by fishermen.

Vessel checks of the rafts indicated that they attracted forage fish species normally found in association with floating objects. A total of only three reported sets were made on two of the anchored rafts, resulting in a catch of 21 tons of yellowfin and skipjack tuna. None of the yellowfin tuna captured were the larger fish usually found in association with dolphins. Two reported sets were made on another of the rafts after it had become separated from its mooring. The total catch in those two sets on the drifting raft was 35 tons of skipjack and yellowfin tuna. Again, the captured yellowfin were small fish.

Two of the rafts did aggregate harvestable amounts of tuna while they were anchored, but the rafts' longevity indicates that such devices would require periodic servicing or replacement for them to remain available to the fleet. In a large offshore fishery such as the eastern Pacific tuna fishery, free-drifting, man-made fish aggregating devices may be of more value than anchored devices as an alternative tuna fishing method.

Backdown board

Commission staff have constructed and have been testing an experimental "backdown board" (Figure 10) that is designed to prevent the channel from collapsing during backdown. The board is similar in design and principle to the otter boards used by trawlers to keep their trawl nets open.

Commission data collected by sea-going technicians in 1979-1980 indicated that 13.2% of all observed dolphin sets had a net collapse that endangered dolphins at some time during the set. These sets accounted for 38.7% of the observed dolphin mortality (the data do not indicate how much of the mortality is attributable to backdown channel collapse). It is likely that a significant portion of this mortality resulted from net collapses that occurred during or after backdown.

Testing of a small model of the board began in 1980 using a scale model net towed by a motorized raft in a pool. As can be seen in Figure 11a, the board functioned similarly to the otter board of a trawler. When properly positioned, water flow against the board results in a towing force on the stern side corkline of the backdown channel, preventing this side of the corkline from coming together with the bow side corkline.

The prototype backdown board was constructed of plywood and coated with several layers of fiberglass resin. The flotation section was filled with foam, and steel plates were attached to the sides and bottom of the board to provide strength and ballast.

A vessel was chartered to test the board during a simulated backdown but the anticipated results were not obtained. Figure 11b shows that the board did not "sail out" and the corkline was held open only by the force of the towline.

Several structural changes were made to the board and it has been tested twice since with inconclusive results. The captains of the co-operating vessels have expressed opinions that the board would be beneficial in maintaining an open backdown channel. Testing of the board will continue in order to determine the feasibility of its regular use.

Night backdown lighting .

Data collected by the US NMFS during 1979 indicate that 9.0% of the observed dolphin sets had all or part of the backdown procedure carried out in darkness. These night backdown sets accounted for 37.3% of the observed mortality. The average number of dolphins left in the net was 7.6 after night backdowns compared to 1.3 after daylight backdowns. A possible cause of this could be reduced visibility of the vessel operator and the dolphin rescuers at night.

The procedure used by many vessels at night is to shine a strong spotlight into the net next to the boat in an attempt to attract the tuna towards the light and away from the backdown channel apex. A hand-held spotlight is then directed towards the apex to check on dolphin release and rescue progress. Because the channel and apex are not illuminated continuously, it is possible that dolphins in the net are not seen before backdown is stopped.

A variety of lighting systems were tested aboard a chartered purse seiner during a simulated night backdown in order to evaluate their effectiveness in providing increased surface visibility of the backdown channel for both the vessel operator and dolphin rescuers at the channel apex. No dolphins were in the net during the test set.

Two of the systems tested, a commercially made floodlight and a Commission built light panel were considered the most effective and they were loaned to co-operating purse seiners for one fishing trip each. However, neither vessel made a set on dolphins in which backdown was performed at night. One vessel kept the light panel to test during its current fishing trip. The floodlight was loaned to another vessel which is also currently fishing.

TUNA-DOLPHIN INTERACTIONS

In April 1981, Commission staff convened a working group of scientists in Managua, Nicaragua. The purpose of the meeting was to serve as a forum for discussion of the tuna-dolphin association in the eastern tropical Pacific and to suggest research possibilities which would enable the effects of any interactions to be detected or quantified.

The workshop was held in accordance with the resolution passed at the 34th meeting of the Commission, held from June 27-29 in San Diego, which recommended that the IATTC staff "convene meetings of scientists and other experts to confer with the Commission staff in its dolphin-related studies."

Participants were invited from member nations of the Commission, from non-member nations which fish for tunas associated with dolphins in the eastern tropical Pacific and from other organizations with a research interest in this or related topics. Nineteen scientists attended the workshop including five from the Commission's tuna-dolphin staff and fourteen from Costa Rica, Mexico, Nicaragua, Panama, the United Kingdom, and the United States

The staff of the Commission's tuna-dolphin investigation prepared review papers for the workshop on the subjects of dolphins and the purse seine fishery for yellowfin tuna, the estimation of abundance of dolphins in the eastern tropical Pacific, natural mortality of dolphins and dolphin stocks in the eastern tropical Pacific. In addition, several other manuscripts and publications were made available to the workshop participants as background papers.

As a guide to their discussions, the working group tried to satisfy the terms of reference, which are listed below.

1. To review the current knowledge of subjects concerning tuna-dolphin interactions in the eastern tropical Pacific.
2. To discuss the possible forms of tuna-dolphin interactions.
3. To discuss the management of the tuna-dolphin complex in terms of the above.
4. To discuss areas of necessary and effective research in order to determine the nature of tuna-dolphin interactions.
5. To suggest future experiments and surveys for this purpose.

Suggestions for future research were made in the areas of dolphin distributions and their relationship to oceanographic features; morphometric, meristic and biochemical analyses of data to delineate dolphin stocks; the estimation of dolphin life history parameters such as reproductive rates, growth rates and mortality rates; the estimation of dolphin abundance; and the interactions between populations of dolphins and tunas, specifically in the areas of modelling and theoretical work, food-based studies, tagging experiments and environmental investigations.

A report on the workshop is currently being prepared by Commission staff and will appear in the Special Report series of publications. The report will include, as appendices, those review papers prepared for the workshop which are not available elsewhere.

The workshop was conducted with the assistance of the staff of the Instituto de Pesca of Nicaragua, whose co-operation is gratefully acknowledged.

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Table 1. Observed dolphin mortality - 1980
,Tabla 1. Mortalidad observada de delfines - 1980

	Total trips with sets on dolphins	Sampled trips with sets on dolphins	Sampled sets on dolphin	Spotted dolphin	Eastern Spinner dolphin	White-belly Spinner dolphin	Unident. Spinner dolphin	Common dolphin	Striped dolphin	Others and Unident. dolphin
	Total De viajes con lances sobre delfines	Viajes De muestreo con lances sobre delfines	Lances sobre delfines muestreados	Delfin manchado	Delfin tornillo oriental	Delfin tornillo panza blanca	Delfin tornillo sin ident.	Delfin comun	Delfin listado	Otros y delfines sin ident.
USA (1)	226	97	1694	4535	283	1555	56	139	20	119
USA (2)	149	76	239	155	2	61	0	25	17	12
Non-USA (1)	151	8	78	379	36	292	0	39	3	0
Non-USA (2)	124	6	32	50	23	0	1	230	18	0

(1) = Successful Sets - Lances Positivos.

(2) = Unsuccessful Sets - Lances Negativos

Note that a fishing trip can have both successful and unsuccessful sets.
Observese que un viaje de pesca puede tener tanto lances positivos como negativos.

Table 2. Effects of stratification by number of sets.
Tabla 2. Efecto de la estratificacion por numero de lances.

Number of strata	Number of trips per strata	Estimated total US kill from successful sets	Standard Error of total kill
Numero de los estratos	Numero de viajes por estratos	Estimacion total de la mortalidad segun lances positivos (EEUU)	Error normal de la mortalidad total
1	97	16702	2473
2	48,49	16514	2405
3	33,33,31	16192	2265
4	25,25,23,24	15531	2064
5	16,19,18,20,24	16465	2419

Table 3. Estimated incidental mortality - 1980
Tabla 3. Mortalidad incidental estimada - 1980

	Spotted dolphin	Eastern Spinner dolphin	Whitebelly Spinner dolphin	Unident. Spinner dolphin	Common dolphin	Striped dolphin	Others and Unident. dolphin
	Delfin manchado	Delfin tornillo oriental	Delfin tornillo panza blanca	Delfin tornillo sin indent.	Delfin comun	Delfin listado	Otros y delfines sin ident.
USA(1)	10629	678	3403	135	350	44	292
USA(2)	303	4	114	0	50	31	22
Non-USA(1)	10804	1096	9402	0	909	53	0
Non-USA(2)	833	370	0	16	3712	289	0
Total	22569	2148	12919	151	5021	417	314

(1) = Successful Sets - Lances Positivos

(2) = Unsuccessful Sets - Lances Negativos

Table 4. Standard errors of mortality estimates - 1980
Tabla 4. Errores normales en las estimaciones de mortalidad - 1980

	Spotted dolphin Delfin manchado	Eastern Spinner dolphin Delfin tornillo oriental	Whitebelly Spinner dolphin Delfin tornillo panza blanca	Unident. Spinner dolphin Delfin tornillo sin indent.	Common dolphin Delfin comun	Striped dolphin Delfin listado	Others and Unident. dolphin Otros y delfines sin ident.
USA(1)	1529	104	903	42	128	21	146
USA(2)	101	3	49	0	23	23	15
Non-USA(1)	2232	555	2730	0	513	68	0
Non-USA(2)	364	374	0	12	3370	215	0
Total	2732	677	2876	43	3411	227	147

(1) = Successful Sets - Lances Positivos

(2) = Unsuccessful Sets - Lances Negativos

Table 5. Ratio of average estimate of standard error to population standard error (bias) and 95% confidence limits as a multiple of average estimated standard error from the mean for estimated total kill based on a sampling population of 167 trips.

Table 5. Razon del promedio de la estimacion del error normal con relacion al error normal de la poblacion (sesgo) y el 95% de los limites de confianza como un multiplo del promedio del error normal estimado segun la media de la mortalidad total estimada, basada en un grupo muestreado de 167 viajes.

	Sample size (trips)	Bias in estimated standard error (s)	Empirical confidence limits lower	 upper
	Magnitud de la muestra (viajes)	Sesgo al estimar el error normal (s)	Limites de confianza empiricos bajos	 altos
Spotted dolphin Delfin manchado	8	0.77	-1.7 s	+3.5 s
Spotted dolphin Delfin manchado	55	0.96	-1.9 s	+2.1 s
Common dolphin Delfin comun	8	0.57	-	+4.9 s
Common dolphin Delfin comun	55	0.91	-1.8 s	+2.3 s

Table 6. Numbers of purse seine sets for the years 1959-1980
Tabla 6. Numeros de lances de barcos cerqueros en los anos 1959-1980

	Not associated with dolphins No associado con delfines			Associated with dolphins Associado con delfines		
Year Ano	Known Conocido	Estimated Estimado	Total Total	Known Conocido	Estimated Estimado	Total Total
1959	759	2,527	3,286	132	458	590
1960	1,256	3,632	4,888	1,644	3,758	5,402
1961	3,825	4,461	8,286	3,617	4,233	7,850
1962	8,830	3,466	12,296	2,866	871	3,737
1963	9,266	5,181	14,447	3,290	1,141	4,431
1964	7,681	3,030	10,711	5,933	1,715	7,648
1965	7,176	3,990	11,166	6,172	1,641	7,813
1966	7,001	3,821	10,822	5,443	1,426	6,869
1967	10,018	2,905	12,923	3,510	689	4,199
1968	8,988	1,316	10,304	3,833	326	4,159
1969	6,522	1,357	7,909	7,664	698	8,362
1970	9,692	942	10,634	7,912	722	8,634
1971	10,728	2,686	13,414	4,816	718	5,534
1972	4,682	2,321	7,003	8,193	1,193	9,386
1973	9,463	2,208	11,671	8,686	1,464	10,150
1974	11,669	3,233	14,902	7,955	1,602	9,557
1975	13,396	3,410	16,806	8,172	1,492	9,664
1976	17,789	3,812	21,601	7,481	1,372	8,853
1977	15,005	5,147	20,152	7,485	2,496	9,981
1978	21,527	4,517	26,044	5,174	1,122	6,296
1979	19,662	2,699	22,361	7,510	1,047	8,557
1980	17,082	3,467	20,549	6,513	1,363	7,876

FIGURE LEGENDS

1. Track lines flown during aerial photographic study.

2. Distribution of dolphin schools photographed off (a) Acapulco and Zihuatenejo and (b) Tapachula.

3. Movements of a radio-tagged Hawaiian spotted dolphin (RT-2) during May 16-20, 1980.

4. Diving patterns of a radio-tagged Hawaiian spotted dolphin (RT-2).

5. Areas of the eastern tropical Pacific inhabited by spinner dolphins as defined by the Status of Porpoise Stocks workshop (Smith, 1979) and used in this analysis. Area A1 - eastern spinners only; area A2 - eastern and whitebelly spinners; area A3 - Costa Rican spinners.

6. Density estimates for schools of eastern spinner dolphins for the years 1977-1980. The dark region represents a range of point estimates for each year bounded by the extremes of either including or excluding unidentified spinner schools in area A2 (see Figure 5). The light region represents approximate 95% confidence intervals for each year about the range of point estimates.

7. Estimated number of eastern spinner dolphins for the years 1977-1980. The dark region represents a range of point estimates for each year bounded by the extremes of either including or excluding unidentified spinners in area A2 (see Figure 5). The light region represents approximate 95% confidence intervals for each year about the range of point estimates.

8. Mean school size estimates for eastern spinner dolphins made from technician best estimates for the years 1977-1980. The hatched region represents a range of point estimates for each year bounded by the extremes of either including or excluding unidentified spinner schools in area A2 (see Figure 5).

9. IATTC raft and anchoring system.

10. IATTC backdown board.

11. Representation of net configurations with backdown board in use; (a) pool tests, (b) vessel tests.

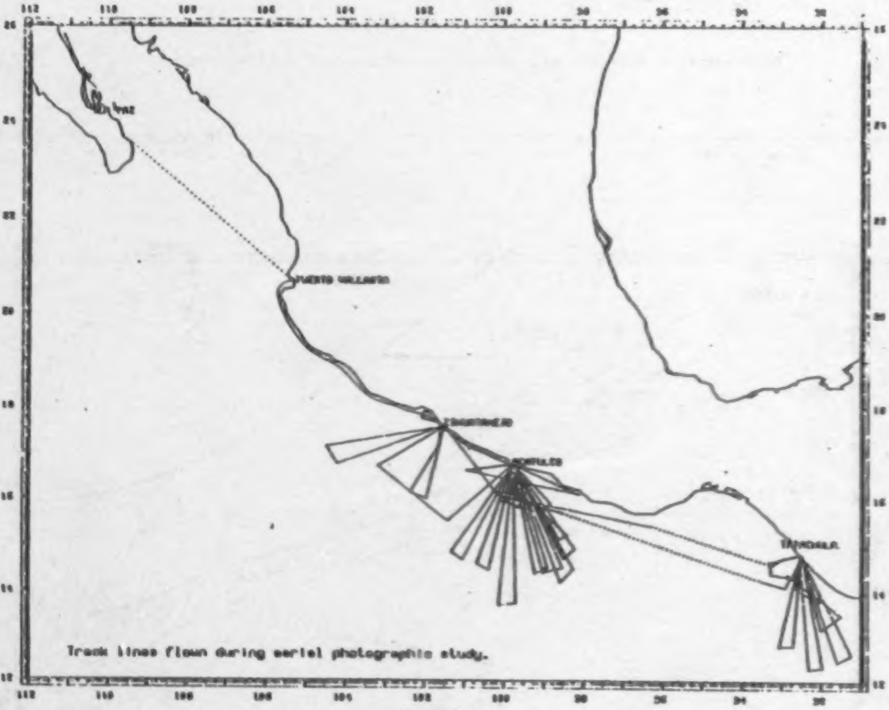
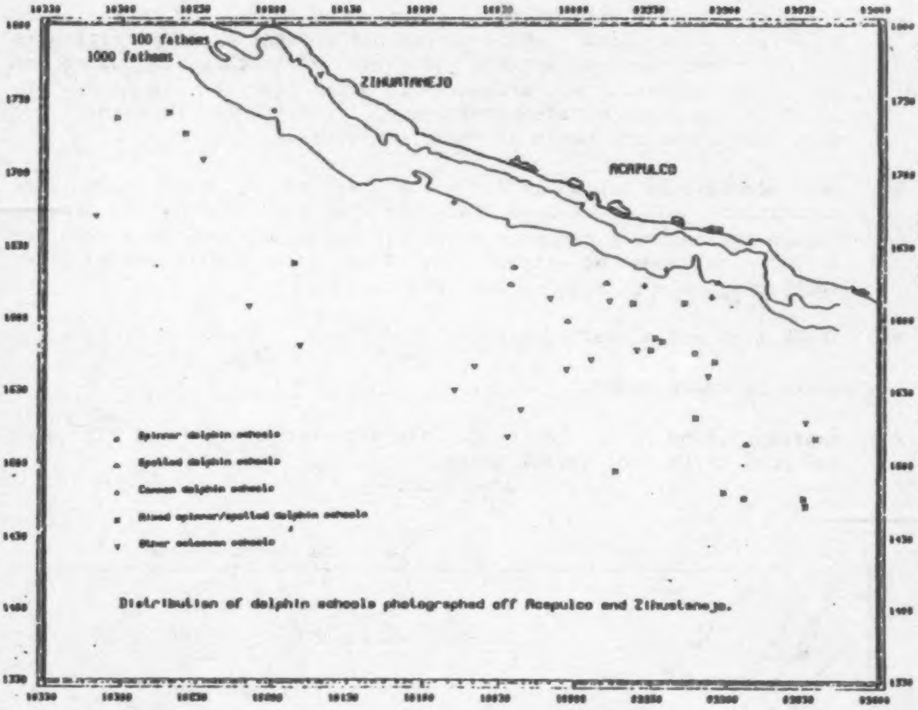
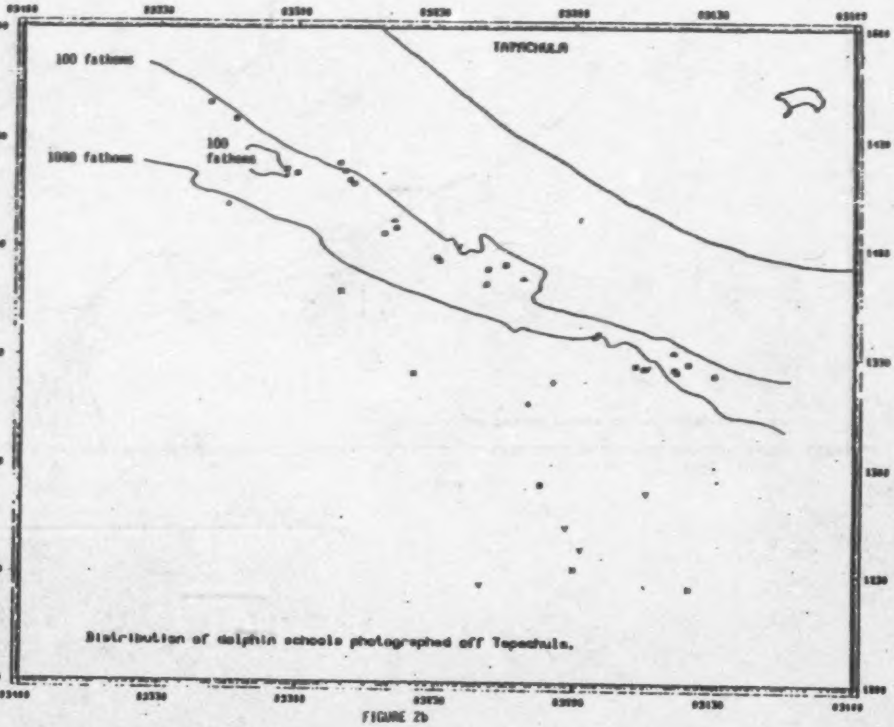

112
110
108
106
104
102
100
98
96
94
92
26
24
22
20
18
16
14
12
PAZ
PUERTO VALLARTA
ZIHUATANEJO
ACAPULCO
TAPACHULA
Track lines flown during aerial photographic study.

FIGURE 1.


100 fathoms
1000 fathoms
ZIHUATANEJO
ACAPULCO
Spinner dolphin schools
Spotted dolphin schools
Common dolphin schools
Mixed spinner/spotted dolphin schools
Other cetacean schools

Distribution of dolphin schools photographed off Acapulco and Zihuatanejo.


TAPACHULA
100 fathoms
100 fathoms
1000 fathoms

Distribution of dolphin schools photographed off Tapachula.

FIGURE 2b

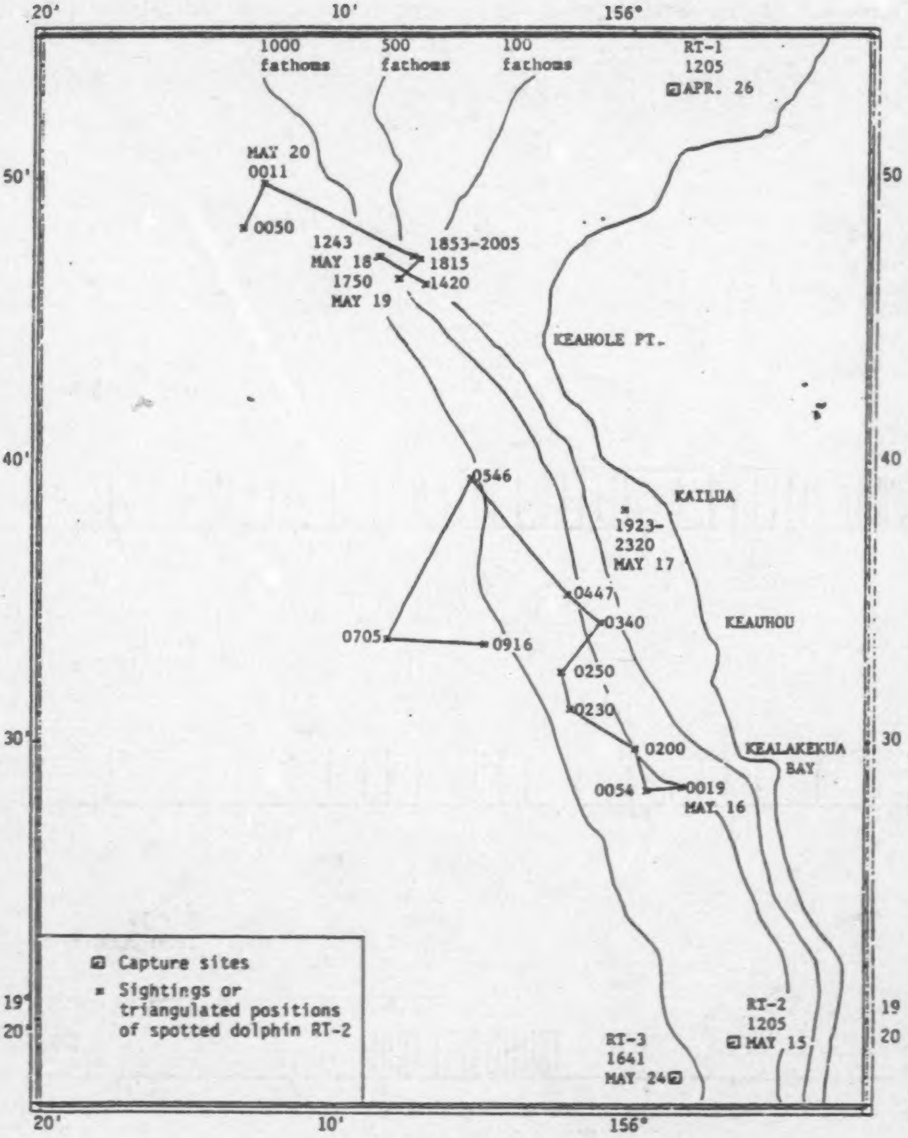
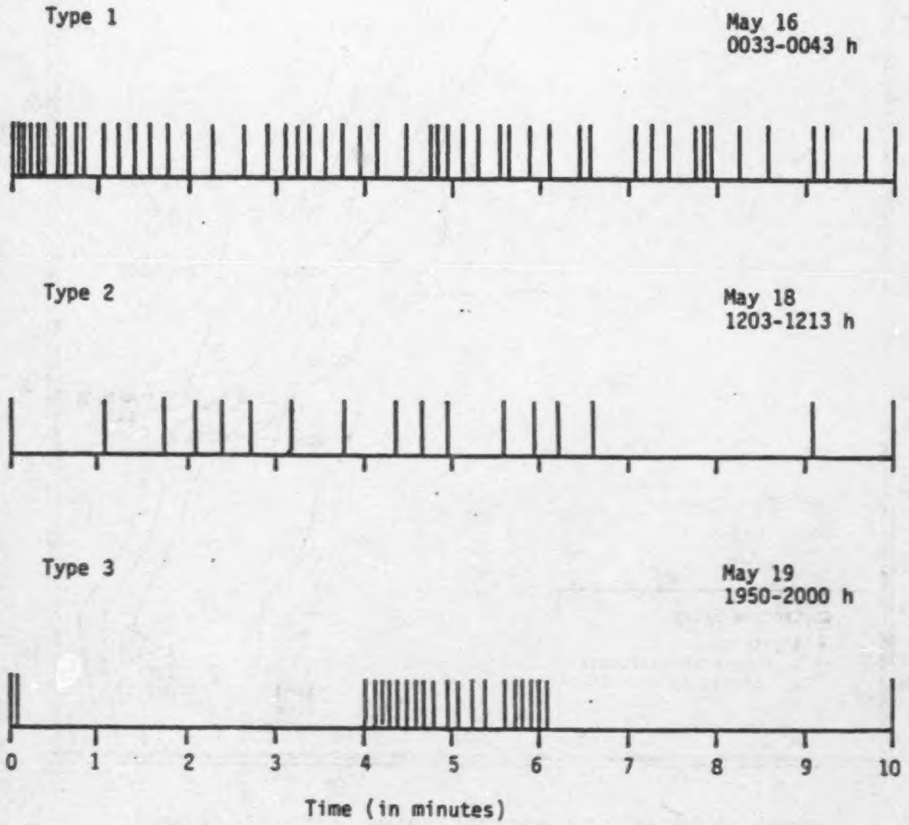

20'
10'
156°
1000 fathoms
500 fathoms
100 fathoms
RT-1
1205
APR. 26
MAY 20
0011
0050
1243
MAY 18
1750
MAY 19
1853-2005
1815
1420
KEAHOLE PT.
50'
50
40'
40
0546
KAILUA
1923-
2320
MAY 17
0447
0340
KEAUHOU
0705
0916
0250
0230
30'
30
0200
KEALAKEKUA BAY
0054
0019
MAY 16
Capture sites
Sightings or triangulated positions of spotted dolphin RT-2
19°
20'
19
20
RT-3
1641
MAY 24
RT-2
1205
MAY 15

Figure 3. Movements of a radio-tagged Hawaiian spotted dolphin (RT-2) during May 16-20, 1980. Also included are the capture sites for dolphins RT-1, RT-2 and RT-3.

Figure 4. Diving patterns of a radio-tagged Hawaiian spotted dolphin (RT-2). Terminology follows that of Leatherwood and Ljungblad (1979).



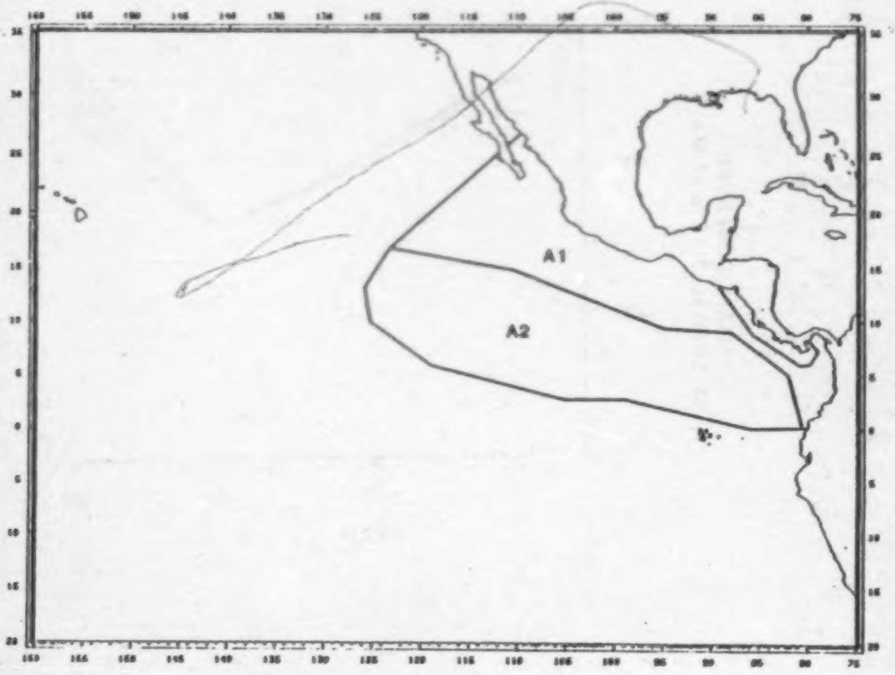

160
155
150
145
140
135
130
125
120
115
110
105
100
95
90
85
80
75
35
30
25
20
15
10
5
0
5
10
15
20
A1
A2

Figure 5

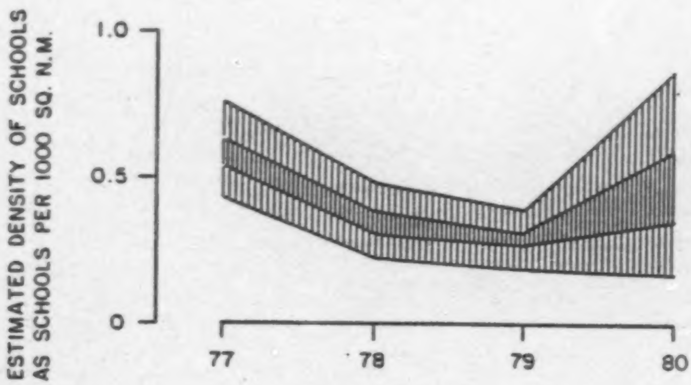


Figure 6

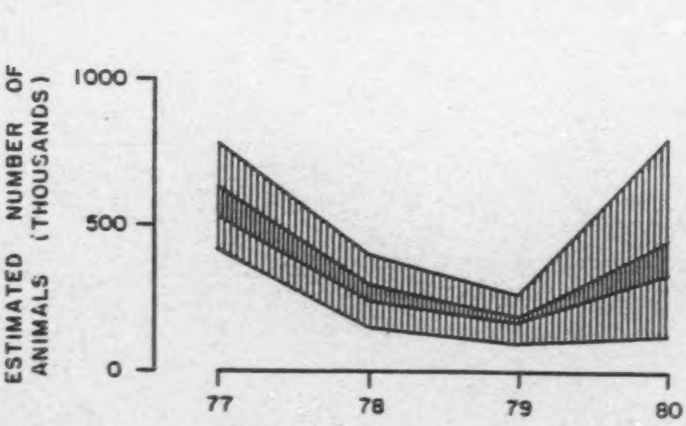
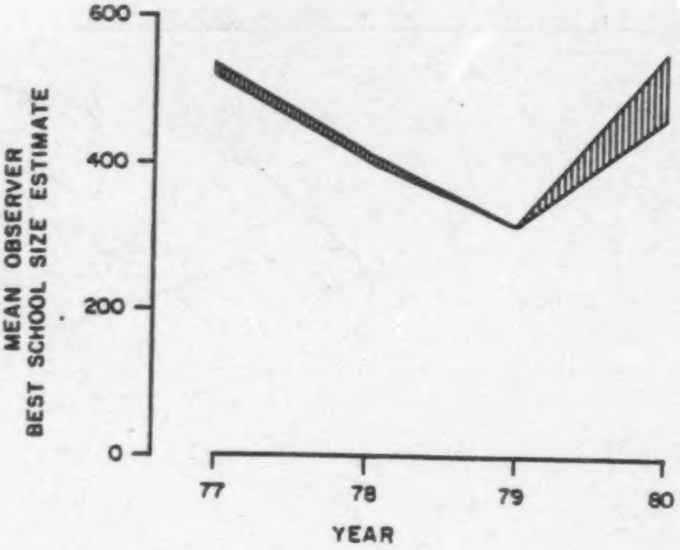


Figure 7

Figure 8


600
400
200
0
MEAN OBSERVER
BEST SCHOOL SIZE ESTIMATE
77
78
79
80
YEAR

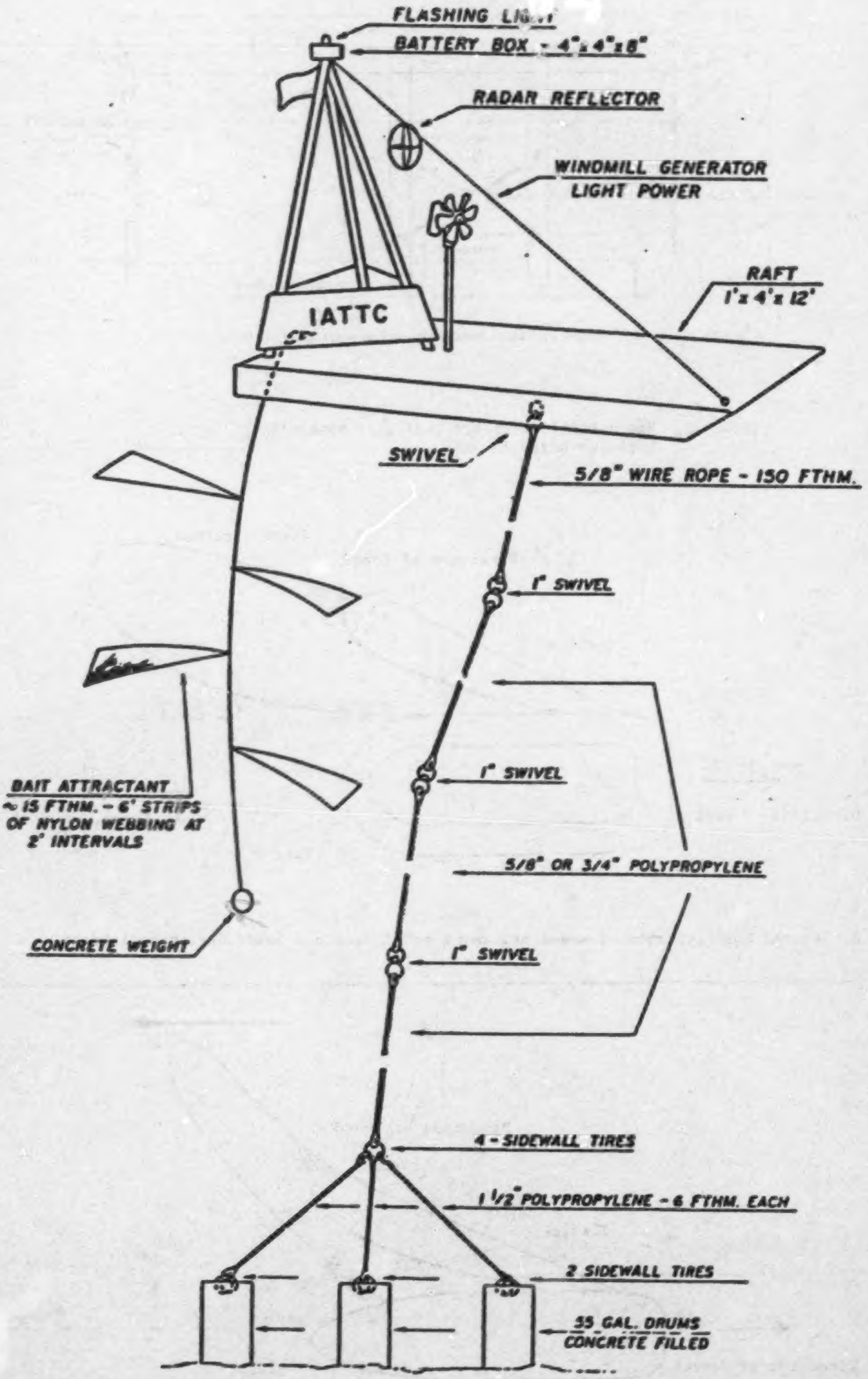

FLASHING LIGHT
BATTERY BOX - 4" x 4" x 8"
RADAR REFLECTOR
WINDMILL GENERATOR LIGHT POWER
IATTC
RAFT 1' x 4' x 12'
SWIVEL
5/8" WIRE ROPE - 150 FTHM.
1" SWIVEL
1" SWIVEL
5/8" OR 3/4" POLYPROPYLENE
1" SWIVEL
BAIT ATTRACTANT ~ 15 FTHM. - 6' STRIPS OF NYLON WEBBING AT 2' INTERVALS
CONCRETE WEIGHT
4 - SIDEWALL TIRES
1 1/2" POLYPROPYLENE - 6 FTHM. EACH
2 SIDEWALL TIRES
55 GAL. DRUMS CONCRETE FILLED

FIGURE [illegible] IATTC Raft and Anchoring System

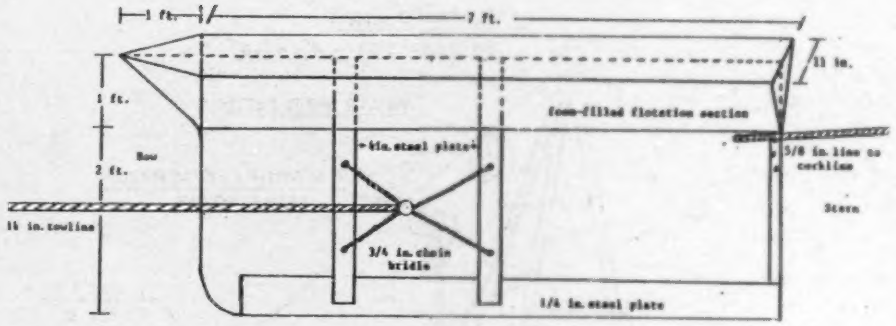
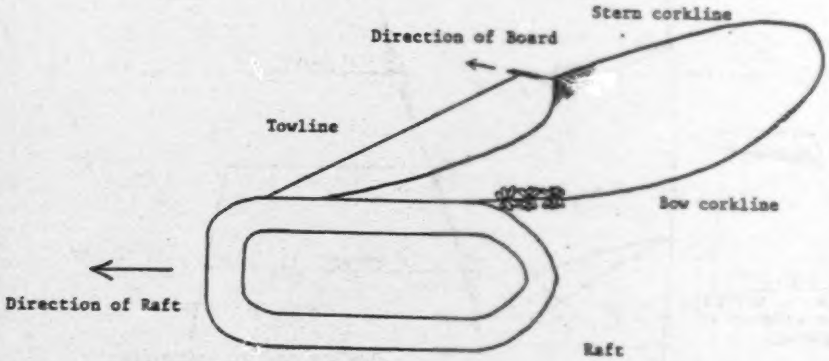
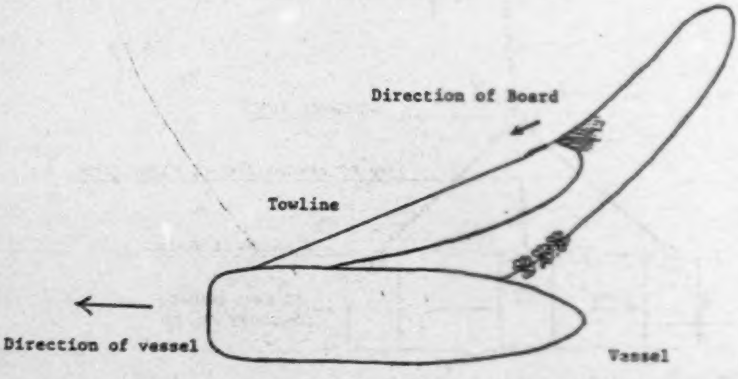

1 ft.
7 ft.
11 in.
1 ft.
2 ft.
Bow
foam-filled flotation section
½ in. steel plate
3/8 in. line to corkline
Stern
1½ in. towline
3/4 in. chain bridle
1/4 in. steel plate

FIGURE 10. IATTC Backdown Board (resin-coated plywood)

FIGURE 11. Representation of net configurations with backdown board in use.


Stern corkline
Direction of Board
Towline
Bow corkline
Direction of Raft
Raft

A. General configuration of model net using model backdown board during pool tests


Direction of Board
Towline
Direction of vessel
Vessel

B. General configuration of charter vessel's net using backdown board during local tria

Date : January 5, 1982

To : J. Gary Smith, Chief, Fisheries Management Division

Norman A. Mendes

From : Norman A. Mendes, Chief, Tuna/Porpoise Management Branch

Subject: Tuna/Porpoise Program

Weekly Status Report

December 28, 1981 - January 3, 1982

	Trips Planned		Observers Departed		Observers Returned		Observers at Sea	
Cycle	NMFS	IATTC	NMFS	IATTC	NMFS	IATTC	NMFS	IATTC
I	15	23	14	20	14	20	0	0
II	12	17	11	15	9	15	2	0
III	17	21	11	21*	5	15*	6	6

Observers assigned and awaiting departure: 4

Observers available for assignment: 25

Observers unavailable for assignment: 6

Number of gear inspections completed: 0 (Total yr. to date: 85)

Number of Vessel Certificates of Inclusion issued: 0 (Total yr. to date: 93)

Number of Operator Certificates of Inclusion issued: 0 (Total yr. to date: 165)

Skipper Workshop(s): None.

REMARKS: Final 1981 Report.
*Includes one IATTC staff employee. 1982 certificates issued to date - Vessels 36, Operators 34.

Date : March 29, 1982

To : J. Gary Smith, Chief, Fisheries Management Division

Norman A. Mendes

From : Norman A. Mendes, Chief, Tuna/Porpoise Management Branch

Subject: Tuna/Porpoise Program

Weekly Status Report

March 22, 1982 - March 28, 1982

	Trips Planned		Observers Departed		Observers Returned		Observers at Sea	
Cycle	NMFS	IATTC	NMFS	IATTC	NMFS	IATTC	NMFS	IATTC
I	14	20	13	15	1	0	12	15
II	11	16	0	0	0	0	0	0
III	14	20	0	0	0	0	0	0

Observers assigned and awaiting departure: 1

Observers available for assignment: 5

Observers unavailable for assignment: 28

Number of gear inspections completed: 2 (Total yr. to date: 29)

Number of Vessel Certificates of Inclusion issued: 0 (Total yr. to date: 85)

Number of Operator Certificates of Inclusion issued 5 (Total yr. to data: 120)

Skipper Workshop(s): None.

REMARKS: One observer still at sea on a 1981 trip. Two sea trials held for super apron alignment. Observer Dave Grunden resigned effective 3/19/82.

Mr. KAUFMANN. And also a report from the National Report Fishing Services which indicates there are more observers in the national program than there is in this program. That is the gist of our recommendations to you, sir. I think I had better quit. I think I have used up my 3 minutes. I would like to stop at this point.

Thank you, sir.

Senator WEICKER. Thank you very, very much.

[The information follows:]

STATEMENT OF COL. MILTON M. KAUFMANN

Mr. Chairman, distinguished members of the Committee, I am the Director of the Fund for Animals' International Program for Marine Mammals and Endangered Species and I am speaking on behalf of the President of the Fund for Animals, Cleveland Amory. The Fund for Animals is an international wildlife conservation and animal welfare organization with over 200,000 members, most of whom are in the United States. I am also President of Monitor International and a member of the Board of Directors of the Monitor Consortium-USA. I am accompanied by Mr. David Burney, General Counsel U.S. Tuna Foundation which represents all elements of the U.S. West Coast tuna industry. This organization supports my testimony in its entirety. Other organizations who support this statement are listed in the next to last paragraph.

The purpose of my appearing before you is to request that you increase the State Department's Budget Estimate request for the U.S. share of the funding for the Inter-American Tropical Tuna Commission for FY'83 by $500,000 and reprogram back $500,000 into the IATTC FY'82 Budget. This increase will restore the U.S. contribution to the level of recent years which continued through FY'81.

The reduction proposed by the Administration for FY'83 reflects action already taken by the State Department for FY'82 in reprogramming $500,000 out of the U.S. FY'82 contribution to the IATTC.

Our concern with these major reductions of the U.S. contribution to the IATTC is the impact it is having and will have on the IATTC's efforts to reduce the incidental take of porpoise by the international fleet purse seining for yellow-fin tuna in the eastern tropical Pacific. Non-U.S. seiner fishing ships now catch approximately 50% of the total annual yellow-fin tuna tonnage and are responsible for more than half of the estimated 40,000 porpoises which die annually in the purse seine nets of the international fleet.

The $500,000 cut will reduce the ability of the Commission to fulfill its obligations under the Inter-American Tropical Tuna Convention. It will eliminate all field work on tuna and porpoise other than routine statistical data gathering. Funding of the international porpoise observer program will be cut by approximately 35%. This covers both non-U.S. observers riding non-U.S. ships and U.S. observers participating in the international observer program. There will be a substantial reduction in analytical work relating to indices of abundance of porpoise. It will eliminate seven positions on the Commission staff, 3 1/2 of which are on the porpoise staff which numbers 14 presently. The porpoise gear research program will be cut by more than one-half.

You are all familiar with the long struggle on the part of conservationists starting in 1971 to achieve a significant and continuing reduction in incidental kill of porpoise during purse seining for tuna. Public concern on this issue was a major factor in the passage of the Marine Mammal Protection Act of 1972. It is the clearly-expressed will of the American people that the porpoise kill must be reduced to an absolute minimum. Under the ten years of the MMPA the estimated U.S. porpoise kill has been reduced from a pre-Act average of 350,000 to 19,000 in 1981. This speaks well for the U.S. fishing industry, the implementation of the Act by the NOAA and the continuing interest and monitoring by the U.S. conservation communtiy.

However, the actual reduction by the Administration of $500,000 in FY'82 and the proposed reduction of $500,000 in FY'83 present a new problem which may tragically reverse this trend. The NMFS has eliminated all of its 12 porpoise gear research positions. These dedicated and experienced gear specialists have been either fired or transferred to totally different work. Accordingly the only porpoise gear research program underway is that of the IATTC which will be reduced by more than half by the proposed reductions.

Virtually the only handle the U.S. has on the increasing non-U.S. porpoise kill is the conservation policy of the IATTC and the IATTC's program which implements that policy.

We think that the State Department in recommending the $500,000 reduction to the Administration was under a misapprehension relating to an IATTC carry-over and did not realize the implications of the proposed reductions. IATTC had a large carry-over from FY'78 through FY'80 related to the new IATTC porpoise program. At the very end of FY'78 (two weeks before the end of the fiscal year) the U.S. gave the IATTC $500,000 to start up the porpoise conservation program (which was approved at the IATTC's 34th Meeting in June, 1977). In order to insure that the money was spent constructively, the Commission staff director obtained permission from the Commissioners to carry it over and spend it subsequently on carefully-devised projects. By the end of FY'81 the carry-over had been expended. No carry-over exists for FY'82 and FY'83.

The judicious and frugal use of this carry-over is an example of the efficient and responsible way in which the Commission staff, under Dr. James Josephs, discharges its responsibilities. IATTC has an international reputation as one of the most effectively-run intergovernmental Commissions in the world. Dr. Josephs has the confidence and respect of the member governments and the tuna fishery the IATTC regulates.

May I provide a bit of my background to assist you with an evaluation of this recommendation. In 1971 and 1972, during the Congressional debate on the MMPA, I helped coordinate the efforts of those elements of the conservation community who were working to achieve a strong Marine Mammal Protection Act. I was the first President and executive officer of a Consortium of 33 U.S. conservation organizations that was organized to monitor the Executive Branch's implementation of the MMPA after it was signed into law. This Consortium (Monitor Consortium-USA) has held over 500 weekly meetings since it was organized. I served on the U.S. Delegation to the IATTC for five years. My primary objective in serving on the U.S. Delegation was to assist the U.S. in gaining acceptance of its position that the Commission's duties should be broadened to include an international porpoise conservation program. This was achieved in 1976. I attended the opening of the first international porpoise observer training class conducted by the Commission.

In summary, we recognize that many other U.S. programs, also considered worthwhile and essential, have been cut. Our concern is that this $500,000 reduction will result in a 27% reduction* from the requested total budget of $2,632,860. It will signal the Latins and other past and present members of the IATTC that the U.S. is no longer a strong supporter of the IATTC. This would be unfortunate at a time when tuna negotiations with the Latins are at a critical stage. And lastly it may well have the result of causing significant increases in porpoise mortality by the non-U.S. part of the international tuna purse seining fleet in the eastern tropical Pacific through weakening the Commission's porpoise conservation program. It will (1) eliminate all field work on porpoise except routine statistical data gathering; 35% of the funding for the international observer program will be cut, (2) cut the porpoise gear research program by more than half and (3) eliminate 3 1/2 of the 14-man porpoise staff.

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*Foreign contributions will be reduced by $160,972 directly related to the U.S. reduction, for a total reduction of $710,972.

Other organizations supporting this statment are as follows:

1. American Cetacean Society
2. American Littoral Society
3. American Society for the Prevention of Cruelty to Animals
4. American Humane Association
5. Center for Action on Endangered Species
6. Connecticut Cetacean Society
7. Defenders of Wildlife
8. Environmental Defense Fund
9. Friends of the Sea Otter
10. Friends of Whales
11. Greenpeace U.S.A.
12. The Humane Society of the United States
13. Institute for Delphinid Research
14. International Fund for Animal Welfare
15. International Primate Protection League
16. Massachusetts Society for the Prevention of Cruelty to Animals
17. National Audubon Society
18. Sierra Club, National Wildlife Committee
19. Society for Animal Protective Legislation

May I thank the Committee for permitting me to present this statement. Mr. David Burney of the U.S. Tuna Foundation and I will, of course, be pleased to respond to questions.

STATEMENT OF ROBERT G. ENGELHARDT

Senator WEICKER. I am going to move on to Mr. Engelhardt, vice president, of Palmer Communications, Inc.

Mr. ENGELHARDT. My name is Robert G. Engelhardt. I am vice president of Palmer Communications, Inc. Palmer is the licensee of radio station WHO located in Des Moines, Iowa. With me are attorneys Charles McKerns and Kenneth Salomon and Ms. Rory Wilcox from the National Association of Broadcasters.

Thank you for this opportunity to testify on the State Department's $17.7 million request for Radio Marti. I have a prepared statement which I will summarize. I request that the statement and its attachment be printed in the record.

Palmer believes that Radio Marti will seriously aggravate Cuban radio interference in the United States. It will have a disastrous impact on WHO and the American farmer, and that the $17.7 million requested for this project for fiscal years 1982 and 1983 will be ill spent.

WHO is a class 1-A clear channel AM radio station broadcasting on 1040 kilohertz with 50 kilowatts of power. WHO's presunrise and nighttime service area encompasses 1,714,337 square miles. It can be received by approximately 40 million people in 32 States. One of WHO's most vital services is our 5:30–6:30 a.m. agricultural reports covering all major midwestern farm markets. Hundreds of thousands of farmers frequently make marketing decisions based on WHO's early morning broadcast of market quotations. No other station in the region carries such extensive farm and agribusiness information.

Cuba has announced plans to retaliate against Radio Marti. Such jamming with a 500 kilowatt transmitter will render Radio Marti's signal useless and reduce WHO's presunrise/night coverage by 99 percent. Concern over Cuban jamming is heightened by the administration's proposal to end the agricultural weather service program. WHO is a private sector source of this specialized information, and if the agricultural weather service program is ended, midwestern farmers must place more reliance on WHO, but Radio Marti, at least indirectly, will force WHO off the air during broadcast hours.

Radio Marti and $17.7 million will be badly utilized. Cuba has said that it will jam the station, and it has the capacity to do so. Jamming a single AM station is frankly quite simple. International broadcasts have been jammed since their inception. The Soviet Union, for example, jammed Radio Liberty within 10 minutes after the station was placed on the air. Cuba will simply do no less. Cuba has the capacity and the intent to make Radio Marti nothing more than an ineffective symbol.

To the extent that a signal reaches Cuba, it will insure that Cuba will jam it. Radio Marti's $17.7 million will be squandered.

We question the true intent of Radio Marti. WHO was 1040 before Radio Marti announced they selected 1040 for it, but the timing is unfortunate. Either the United States knew in advance of Cuba's intent to operate a 500,000 watt station on 1040 and selected that frequency anyway, or Cuba retaliated by selecting 1040 after the announcement of Marti. Whatever Cuba's plans for 1040 were in the absence of Marti, they will view it as a provocative act, calling for retaliation which will wipe out both Marti and WHO.

Much of Marti's programing including news about Cuba, as well as music and baseball, now is received on the island from U.S. commercial broadcast stations. Why, then, do we need to spend $17 million? Spanish language commercials on Miami's spanish language radio stations reflecting the abundance of American life are the most effective message we can deliver. News reports of Cuba on these stations give Cubans ready access to the truth about their government and commercial broadcasts carrying internal credibility that a government station simply could not match.

There are better, cheaper ways to broadcast to Cuba without irreparably damaging WHO and its millions of listeners. A proven method of maximizing international broadcasts reaching their audience is to use multiple frequencies. The better approach is to simultanously use a combination of AM, FM, TV, and shortwave signals. This can be done without spending $2¼ to $4 million to build a single AM station. Now, the Voice of America's Radio Marathon is received in Cuba, yet it operates 5½ hours a day. It could be used together with short wave and leased time on commercial AM, FM, and TV stations that are received in Cuba. If a single station is used, there is no justification to be miles away rather than using Radio Marathon.

Moreover, the ICA plans to build several AM stations in the Caribbean. Radio Marti could be used on one of those facilities.

If there is a risk that a station will be destroyed by Cuban retaliation, a government station should initially bear the risk rather than commercial stations. Opponents of Radio Marti did not balance the benefits of Radio Marti against the damage to U.S. broadcasters from Cuban retaliation. A combination of Radio Marti and Cuba's efforts to operate more than 180 AM stations will, in the National Association of Broadcaster Views, have a devastating impact on the public and American radio broadcasters.

According to the NAB, Cuba's stations will interfere with 200 stations in 32 States and the District of Columbia, including WDRC in Hartford which will lose more than 50 percent of its coverage. The Government should be working toward a negotiated settlement of this problem. Cuba and the United States did conduct negotiations in August 1981 and Cuba was surprisingly cooperative. But August press reports of Radio Marti ended hopes of settlement. Radio Marti cannot contribute to a solution.

Our Government appears to be interested in escalating a radio war rather than finding a solution. Millions of Americans and hundreds of American radio stations will be the victims. H.R. 5427 authorizes compensation of broadcasters to offset the transmission of Cuban interference. The estimated cost to increase a radio station's power from 5 to 10 kilowatts and to modify its antenna is $152 to $200,000, plus capital costs of the more than 200 affected stations could top $40 million, and costs for construction of new antennas, greater power, additional energy costs, loss of advertising revenues, the amount is simply going to skyrocket. Technical modifications are inadequate solutions.

The station can never recover the entire service area and audience lost to interference, and design and construction of corrective, directional antennas are complex and time-consuming. The best power antenna combination may cost several hundred thousand dollars. There is no guarantee that the interference will remain constant after construction. A minor change in the Cuban operation would require a complete redesign. At best, compensation is simply an expensive stopgap measure.

The Government will spend tens of millions of dollars to combat constantly changing Cuban interference patterns; negotiation not compensation is the solution, and experience has shown that radio Marti will dim the prospects for a negotiation.

In summary, WHO is concerned that a jamming of Radio Marti will end presunrise and nighttime service. It is unfair to jeopardize WHO and its listeners when Radio Marathon can provide the service. A combination of Cuba's radio operation and Radio Marti will make the existing problem of Cuban interference far more serious. Radio Marti will make a negotiated settlement impossible.

If the project to broadcast to Cuba must go forward, there are better and more economic ways to deliver the message so as to maximize the chance of the Cuban people to hear it.

Thank you.

PREPARED STATEMENT

Senator WEICKER. Thank you very much. I don't disagree with what you are saying in your statement, both as to the specifics and as to the generalities. We will take a hard look at that request for an appropriation.

Thank you all very much. Your statement will be placed in the record at this point.

[The statement follows:]

STATEMENT OF ROBERT G. ENGELHARDT

My name is Robert G. Engelhardt. I am Vice President of Palmer Communications Incorporated. Palmer is the licensee of Radio Station WHO located in Des Moines, Iowa. With me are Charles McKerns and Kenneth Salomon of the law firm of Dow, Lohnes and Albertson. I welcome this opportunity to testify on the Administration's appropriation request for radio broadcasting to Cuba, popularly known as Radio Marti. For several reasons, Palmer believes that Radio Marti will further aggravate the problem of Cuban radio interference in the United States, that Radio Marti will have a disastrous impact on WHO and the American farmer, and that the $17.7 million dollars requested for this project for Fiscal Years 1982 and 1983 will be ill spent.

WHO is a Class 1-A clear channel AM radio station broadcasting on 1040 KHz with 50 kw of power. Radio Marti is slated to operate from Saddlebunch, Florida on 1040 KHz with 50 kw. WHO's pre-sunrise and nighttime service area encompasses 1,714,337 square miles. Approximately 40 million people in 32 states are able to receive WHO at night. One of our most vital services is our 5:30-6:30 a.m. farm and agribusiness news, agricultural weather forecasts and market reports for all major Midwestern grain markets and livestock terminals. During much of the year, these are pre-sunrise and nighttime hours. Hundreds of thousands of farmers across the Midwest make decisions essential to their own economic well being and their ability to serve American consumers based on these reports. They frequently decide whether to buy or sell livestock, grain or other agricultural commodities on a given day based upon the expected receipt and price quotations they are able to receive via WHO in the early morning hours. No other station in the region carries such extensive farm and agribusiness information.

We are deeply concerned that Cuba's announced plans to retaliate against Radio Marti will destroy WHO's pre-sunrise and nighttime service, including its vital farm market and weather reports. Such jamming with a 500 kw transmitter will shrink WHO's coverage from a radius of 800 miles to a radius of 45 miles, from 1,700,000 square miles to 5,900 square miles -- a 99.65 percent decrease. Our concern over the impact of such Cuban jamming is heightened by the Administration's proposal to eliminate the National Weather Service's Agricultural Weather Service Program in FY 1983. If this proposal stands, farmers will have to rely to an even greater extent on WHO and other nongovernmental sources for the specialized weather information that is absolutely essential to farming. Attached to our testimony is a brochure about WHO, its nearly 58 year history of service to the people of Iowa and the Midwest and the devastating impact that Cuban retaliation against Radio Marti will have on the station and its audience. We ask that this brochure be made a part of the record.

WHO takes no position on the wisdom of our government broadcasting the "truth" about the Cuban government to the people of Cuba. We question, however, whether Radio Marti, operating on WHO's frequency of 1040 KHz, is the most economical and efficient way to deliver the message. We are also deeply concerned about the impact Cuba's proposal to operate more than 180 AM stations will have on U.S. broadcasters and their audiences.

Over the past two months, we have had numerous discussions about Radio Marti, Cuban retaliation by way of jamming and its impact on Midwestern farmers and WHO with members of Congress, the Presidential Commission on Broadcasting to Cuba, and representatives of the Federal Communications Commission, the National Telecommunications and Information Administration, the State Department and the Defense Department. In this regard, let me say at the outset that we are astonished that until we began to make inquiries no one involved with Radio Marti contacted WHO about the use of 1040 KHz. We only learned of the decision to use that frequency through press reports and our own efforts in coming to Washington to talk to as many people involved in this project as possible.

In the course of our discussions, it became clear that the use of other technologies and broadcast services were at best insufficiently studied before it was decided to build an AM station on 1040 KHz. For example, until we raised it at the Defense Department, no thought was given to using AM frequencies below 540 and above 1600 KHz (spectrum not used by U.S. broadcasters) to avoid Cuban jamming of Radio Marti from destroying U.S. radio stations. The ease of jamming a single AM station and the effect of that jamming on U.S. broadcasters was not considered at all by the FCC and other agencies in this process.

Cuba has announced that it will jam Radio Marti. From its point of view, Radio Marti's broadcasts can only be considered provocative. It is naive to think that the station will not be jammed. Cuba said it would do so in December 1981 when it walked out of the Regional Administrative Conference on Medium Frequency (AM) Broadcasting in Region 2 (Western Hemisphere) at Rio. Indeed, one member of the Presidential Commission on Broadcasting to Cuba has said that "you have to be an awful optimist to think that" Cuba will not jam Radio Marti. International Broadcasting: Direct Broadcast Satellites: Hearing Before the Subcommittee on Government Information and Individual Rights of the House Committee on Government Operations, 97th Cong., 1st Sess. 66 (1981). In a December 1981 report entitled International Shortwave Broadcasting and Direct Broadcast Satellites: Voice of America, Radio Free Europe/Radio Liberty, Radio Marti, H.R. Rep. No. 398, 97th Cong., 1st Sess., the House Committee on Government Operations noted that international radio broadcasts have been jammed since their inception. For example, the Soviet Union began jamming of Radio Liberty within ten minutes of its going on the air. H.R. Rep. No. 398 at 9. There is no reason to think Cuba will do less.

There is a kind of "Catch-22" illogic to this situation. If Radio Marti were not judged to be effectively serving its purpose of broadcasting the "truth" to Cuba it would be an expensive folly. Yet to the extent it does serve that purpose, it encourages and perhaps compels the Cuban government to resort to jamming techniques, and it is clearly within their capability in this instance to render it an expensive folly.

There is uncertainty as to whether the Cuban government selected WHO's frequency before or after the United States announced plans for Radio Marti, tentatively on 1040 KHz. The public record is to the effect that the Cuban decision was not announced until after plans for Radio Marti had been made public. We have been told by a responsible State Department official, however, that privately the Cuban government suggested it was considering use of 1040 KHz in August 1981, before the Radio Marti announcement had been made.

We submit that the resolution of this is unimportant to the question at hand. Either our government knew in advance of Cuba's announced intent to operate on 1040 KHz and proceeded to select that frequency nonetheless, or the Cuban selection followed our intent to institute the Radio Marti service. The Cubans have not yet activated a facility on 1040 KHz, evidently recognizing the fact it would not be consistent with other North American assignments, including WHO. Surely, whatever their decision in the absence of an American facility at Saddlebunch, the activation of Radio Marti will be viewed by them as a provocative act, calling for retaliation, and will substantially increase the likelihood they will inaugurate jamming efforts, to the detriment of WHO and its listeners. They have the capacity to do so and in so many words have said they would do so.

In any event, accepting the August 1981 chronology causes one to question the true purpose of Radio Marti and to ask why the Administration adhers to the selection of 1040 KHz. Last month, Assistant Secretary of State Enders testified before the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies that Radio Marti will give

> Cubans the means they now lack to know what kind of a society has been imposed on them, to furnish them a source of news and entertainment that is not manipulated by the state, to let them find out what is really happening in their country, to inform them why so many have gone off to foreign military duty not always to return, and to learn what the state really does with the wealth of the Cuban people.

Surely the Cuban people already know the nature of their society. Therefore, should $17.7 million dollars be spent to broadcast baseball games and music to Cuba, especially when much of this programming, including news about Cuba, is aired by U.S. commercial broadcast stations which are received in Cuba? International Broadcasting hearings at 71; H.R. Rep. No. 398 at 24. Mr. Enders also posed three questions: "Wouldn't it be better to negotiate with the Cubans, or it isn't like us to engage in propoganda, or Cuban countermeasures will hurt us too much." Significantly, Mr. Enders' prepared statement did not answer the final question because the answer can only be that U.S. broadcasters and their listeners will be seriously affected.

If the goal of Radio Marti is to actually deliver the truth to the Cuban people rather than to serve as a domestic political symbol or to provoke a radio war as part of a larger anti-Castro strategy, there is a better, cheaper way, and one that will not irreparably damage WHO and its millions of listeners. During a recession with nearly double digit unemployment and triple digit deficits, Radio Marti is a $17.7 million project that simply cannot be justified. Indeed, that money would be put to more productive use in continuing the Agricultural Weather Service Program.

I might add at this point that Section 6(a) of the House version of S. 1853, H.R. 5427, as reported out by the House Committee on Foreign Affairs, would add a new provision to the Board for International Broadcasting Act of 1973, 22 U.S.C. § 2877. This provision expresses the sense of Congress that the United States should attempt to settle radio interference damage claims against Cuba. Because it views such interference as a foreign policy matter, the legislation authorizes the Board to compensate radio and television licensees "for expenses which they incur in mitigating the effects of activities by the Government of Cuba which interfere with the transmission or reception of the broadcasts of those licensees." H.R. Rep. No. 479, Part I, 97th Cong., 2d Sess. 8 (1982).

The financial obligation of the government under Section 6(a) would be large, indeed. The House Committee on Foreign Affairs estimated that it would cost between $150,000-$200,000 to increase a radio station's power from only 5 to 10 kilowatts and to modify its directional antenna. With more than 200 AM stations affected by Cuba's Region 2 inventory, capital costs alone would exceed $40 million. And greater power increases and construction of new, as opposed to retuned, directional antenna arrays to overcome interference while protecting domestic broadcasters will multiply this total. For example, WQBA in Miami will spend more than $1 million to increase power from 10 to 50 kw. International Broadcasting hearings at 117. Moreover, the House Committee on Foreign Affairs did not indicate whether, for example, additional energy and personnel costs for operating higher powered transmitters and lost advertising revenues would also be covered by the compensation provision.

The National Association of Broadcasters believes that technical modifications are an inadequate solution. A station could never recover the entire service area and audience that it lost to Cuban interference, design and construction of directional antennas to recover lost service area are extremely complex and time consuming and the best combination of transmitter power and directionalized antenna may cost several hundred thousand dollars; and, perhaps most significantly, there is no guarantee that the interference received by the station would continue to exist or remain unchanged once the new facility became operational. A minor change in the Cuban operation would require a complete redesign of the radio station. FCC relaxation of technical standards to permit interference to be shared by all nighttime AM broadcasters is unworkable due to the uniqueness of each AM station's protection requirements. Cuban Interference: Treating Symptoms and Not the Disease, Broadcasting, April 12, 1982, at 44, col. 2. Compensation, therefore, is at best an expensive stop gap measure which would obligate the government to expend tens of millions of dollars to offset a constantly changing Cuban interference pattern. It is clear that negotiation is the way to resolve Cuban-U.S. radio problems. Experience has shown that Radio Marti will dim the prospects for a negotiated settlement.

There are a number of more workable and practical options for broadcasting to Cuba in the event it is decided to proceed with the project. The House Government Operations Committee said that one proven method of maximizing the chance of international broadcasts overcoming jamming and reaching their intended audience is to broadcast on multiple frequencies. The Committee said that

> [m]ultiple frequency broadcasting gives the jammer more to deal with and increases the possibility that listeners will be able to tune in an audible signal. Since the international broadcasts are monitored by the receiving nation, one channel must be left unjammed and it is possible for the listener to find that one channel.

H.R. Rep. No. 398 at 10-11.

Clearly, the better way to get a message to Cuba is by simultaneously utilizing a combination of AM, FM, TV and shortwave signals. This can easily be done without spending \$2½-4 million dollars in capital costs for a new station, a very generous sum. The Voice of America's Radio Marathon in Florida, only 30 miles from Radio Marti's site, is an existing, underutilized 50 kw facility on 1180 KHz, which is received in Cuba. It can be used in conjunction with shortwave broadcasts and leased time on commercial AM, FM and TV stations in Gulf Coast states. The House Government Operations Committee noted that shortwave has been, and continues to be, the primary means of transmitting news and information across international borders and that Radio Marathon and U.S. commercial television and radio broadcasts are received on Cuba. H.R. Rep. No. 398 at 1, 23. While there may be fewer FM and shortwave receivers than AM receivers on the island, FM and shortwave are more difficult to jam. Therefore, given that difficulty, more Cubans would be able to hear unjammed shortwave and FM broadcasts than jammed AM broadcasts.

There are reliable reports, recounted in the Chicago Tribune, the Miami Herald and elsewhere, that Spanish language commercials carried on Miami Spanish-language commercial radio stations, reflecting the relative abundance of American life, are among the most devastating rebuttals of the Cuban government's message to its own people. News reports of Cuba on these stations give the Cuban people ready access to the "truth" about their government. These commercial broadcasts also carry an internal credibility that may be difficult to match with a government owned, operated and programmed facility.

If it is decided to forego the proven and more efficient multiple frequency technique in favor of a single government-owned AM station, no compelling reason exists in the current budget situation for building a new facility at a cost of several million dollars rather than taking over or leasing time on Radio Marathon. Radio Marathon operates only 5½ hours per day: 1½ hours in the morning and four hours in the evening between 6:00 and 10:00 p.m. The physical broadcast plant is in place and ready to go, literally on a moment's notice. A minor amendment to VOA's charter, such as the provision originally proposed by Congressman Jim Leach of Iowa for H.R. 5427, would remove any possible legal impediment to the use of Radio Marathon.

Moreover, Charles Z. Wick, Director of the U.S. International Communication Agency, testified before the House Appropriations Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on March 24 that ICA plans to build several AM stations in the Caribbean to reach Central America and the Caribbean basin. It is only natural to ask why Radio Marti cannot operate on one of these new facilities thereby protecting U.S. stations on the Radio Marti frequency from jamming?

One final comment about the use of Radio Marathon. The government must weigh the benefits to be gained in broadcasting to Cuba against the risk that Cuba will jam the broadcasts resulting in a loss of $17.7 million. Cuba has made its intentions clear and it has the capability to carry out these intentions. Cuba advised the U.S. in August that it planned to build a second 500 kw station on 1160 KHz, the frequency assigned to Radio Station KSL, Salt Lake City. Cuba recently began operating a very high power AM station on 1160 KHz, which has resulted in a significant loss in KSL's pre-sunrise and nighttime coverage. Private enterprise has been asked to do much by this Administration, but it seems to us that if there is a risk that a station will be destroyed by Cuban retaliation, it should be the government's station, Radio Marathon, that should initially be placed in jeopardy on the front lines rather than commercial stations. It is grossly unfair to place the burden on WHO when the government has a facility that is ready and available for Radio Marti.

The State Department has testified that one principle codified in the International Telecommunications Union rules is that the AM band is for domestic use and that shortwave frequencies are the proper medium for international broadcasts. International Broadcasting hearings at 52 (testimony of Richard Shrum, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State). Will Radio Marti, therefore, be legal under international law? Operation of Radio Marti on 1040 KHz may well interfere with stations on that frequency in other Western Hemisphere countries. Honduras, Guatamala, Costa Rica, Ecuador, Mexico, Columbia and the Dominican Republic, for example, have or propose to have stations on that frequency. The U.S. listed 1040 KHz at Saddlebunch, Florida in our Region 2 inventory. But it is on List B, a tentative allocation, because one or more countries claimed that the proposed operation will cause objectionable interference to their stations. As a result, the allocation is subject to bilateral negotiations with our neighbors.

U.S. broadcasters in the Southeast, particularly in Florida, already receive intolerable interference from Cuba. It is a serious problem. And Cuba's Region 2 AM inventory will, according to the National Association of Broadcasters, result in interference to more than 200 U.S. stations in 32 states and the District of Columbia. Cuban Interference to United States AM Broadcast Stations (March 1, 1982). Among the affected stations are: WDRC, Hartford and WICC, Bridgeport (3.6 and 14 percent pre-sunrise and nighttime service area loss, respectively); WCBI, Columbus, WOKK, Meridian, WJDX, Jackson and WVMI, Beloxi (34.5, 86.4, 46.6 and 13.5

percent pre-sunrise and nighttime service area loss, respectively); WORD and WSPA, Spartanburg, WIS, Columbia, WCSC, Charleston and WQOK and WFBC, Greenville (59.8, 19.9, 43.8, 36.7, 11.5 and 4.3 percent pre-sunrise and nighttime service area loss, respectively); and KAMD, Camden, KOSY, Texarkana and KLRA, Little Rock (56.1, 33.6 and 16.3 percent pre-sunrise and nighttime service area loss, respectively). In addition, the NAB found that WTIC, Hartford and KAAY, Little Rock, would lose 50% or more of their pre-sunrise and nighttime coverage to Cuban interference.

According to press reports and statements from members of the U.S. delegation, last summer's Cuban-U.S. negotiations to resolve mutual interference problems were surprisingly encouraging. However, Cuba walked out of the Region 2 Conference in part because of Radio Marti. All hopes of negotiations evaporated with the walk out. The U.S. should be working to resolve the interference problem through renewed negotiations. One must ask how Radio Marti will do anything other than worsen interference and dim the prospects for a negotiated settlement. Finally, we ask who will be perceived as the "aggressor" in a Cuba-U.S. radio war? Some, perhaps including many of our Latin American neighbors, would say that the U.S. government's establishment of Radio Marathon in 1962, which was outside of the North American Regional Broadcast Agreement, set the stage, and it appears that Cuba did not begin interfering with U.S. broadcasters until after Radio Marathon went on the air.

In summary, WHO is deeply concerned that Cuban jamming of Radio Marti, operating on 1040 KHz, will effectively end its pre-sunrise and nighttime service and, in particular, its farm and agribusiness news and weather reports so vital to the operational and marketing decisions and the economic well being of hundreds of thousands of farmers throughout the entire Midwest. We think it is grossly unfair for the government to put WHO and its listeners in jeopardy when Radio Marathon can provide the desired service -- in short, it is the government's place to bear the risk in the first instance, not a commercial radio station and its listeners. We are also concerned that the combination of Cuba's inventory and the operation of Radio Marti will make the existing problem of Cuban interference *far* more serious than it is now. Radio Marti, as experience of last summer and fall shows, will make negotiations impossible. If the project to broadcast to Cuba must go forward, far more desirable, workable and economical means exist to deliver the message so as to maximize the chance of the Cuban people to hear it.

Thank you for the time you have given us today. I will be pleased to answer any questions you may have.

EFFECT OF THE RADIO MARTI AND CUBAN COUNTERPROPOSAL ON WHO'S SERVICE AREA

The United States government proposes to operate a 50,000 watt AM radio station, designated as Radio Marti, on the WHO assigned Class 1-A Clear Channel frequency of 1040 kHz and directionalized towards Cuba, for the purpose of "telling the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this Hemisphere. . .". Cuba has said that it will retaliate against such broadcasts and in December of 1981, it formally proposed to operate a 500,000 watt AM radio station, preliminarily designated as "CMBX WAJAY" from Havana, Cuba on the WHO frequency of 1040 kHz. Such an operation would jam and completely override Radio Marti's broadcasts. Should the Cuban station become operational, it would also interfere with and override the WHO signal in Iowa, as well as all of the contiguous states it now serves with its present Class 1-A Clear Channel signal, during pre-sunrise and nighttime hours. Even though Cuba "suggested" to the United States in August 1981 that it might operate a 500,000 watt AM radio station on 1040 kHz, the United States subsequently selected that frequency for Radio Marti. This raises the question why 1040 kHz was selected for Radio Marti in the face of Cuba's stated intention to build a 500,000 watt station that would preclude Radio Marti's signal from ever reaching the Cuban people.

The large circular arc reflected on the attached coverage map, prepared by Jules Cohen & Associates, reflects the area in which WHO's 0.5 millivolt 50% nighttime skywave signal can presently be heard by residents living in that area. The smaller and irregular circle depicts the perimeter of WHO's present 0.5 millivolt groundwave signal which can be received at all times by listeners residing in that area. The shaded area of the map reflects that in which Cuba's proposed 500,000 watt operation on 1040 kHz would override WHO's signal, and thus preclude satisfactory reception of its signal and award-winning service by all listeners residing in either area. The area in which listeners could receive pre-sunrise and nighttime radio service from WHO would be reduced from a radius of 800 to 45 miles.

STATEMENT OF HON. CHARLES GRASSLEY, U.S. SENATOR FROM IOWA

I appreciate this opportunity to express my deep concerns about the potential effect of operating the proposed Radio Marti as presently planned. Specifically, I am referring to the disastrous consequences for the WHO Broadcasting Company that will result if Cuba carries out its threat to jam Radio Marti with a 500,000 watt AM station. WHO, which shares Radio Marti's proposed frequency of 1040 kHz, would be harmed immensely in the event that Cuba retaliates. This Cuban action not only would spell ruin in terms of WHO operations, but also would destroy a marketing and production informational tool that thousands of farm families have come to rely upon over the past several decades.

In addition to my service in Congress and the Iowa General Assembly, I have farmed most of my life. I recognize and appreciate the importance of being able to depend upon WHO at 5 or 6 a.m. to provide important farm news, weather forecasts, farm market quotations, etc. Farmers must start very early in the morning to begin their daily livestock chores and to get to the fields. Information provided by WHO in those early hours shapes the management decisions of the farmer not only for that immediate day, but also for the weeks ahead for the year. Farmers must have this valuable, timely information if they are to operate effectively and successfully.

It is not only the Iowa farmer who depends upon WHO's pre-dawn broadcast services. WHO's broadcast covers 1,714,337 square miles during the evening and pre-dawn hours. With this range, WHO can reach farmers from over 30 states and Canada. If Cuba retaliates as threatened, this coverage would be reduced to fewer than 6000 square miles, reducing the station's broadcast radius from 800 miles to about 45 miles. Needless to say, this action would deprive most of Iowa's farmers from the essential information offered by WHO, let alone the hundreds of thousands of farm families throughout the rest of the region.

While I fully support the purposes and goals of Radio Marti, in light of the severe damage that the present plans will create for WHO and farmers throughout the Nation, I strongly urge the selection of one of the many viable alternative operating plans that exist for Radio Marti. These alternatives can provide the same positive results at a lower cost, while avoiding the tremendous damage to WHO service.

The most feasible alternative would be to utilize the existing Voice of America facility at Marathon, Florida. Since this station is used only a few hours a day, there would be plenty of broadcasting time available to serve the purposes of Radio Marti. Another positive aspect of this alternative is the fact that Radio Marti could be operational immediately, at little or no additional cost to the government. As a member of the Senate Budget Committee and the Senate Finance Committee, I am acutely sensitive to the unnecessary, avoidable expenses of government. It seems to me a waste to spend over $10 million to build and operate Radio Marti when other less costly facilities are available. Furthermore, there exists even weaker logic for these enormous expenditures, for a radio station that could be rendered immediately ineffective by Cuban retaliatory jamming. For those who suggest that we cannot afford to jeopardize Radio Marathon's operation, I suggest that we likewise cannot justify the destruction of one of the finest farm radio operations in the country.

If the threat from Cuban retaliation is determined to be too real to jeopardize Radio Marathon, and since there is no justification for ruining the operations of WHO, other alternatives may require additional consideration. It is possible that we might be able to use a Mexican clear-channel frequency if permission can be obtained; we might be able to utilize a flexible FM signal that would be far more difficult to jam; the use of 1200 Kilohertz presents another alternative that would also be more difficult to jam; and it would also be possible to broadcast from air or sea.

In summary, Radio Marti must be operated in a manner that minimizes the costs to our citizens and to our government. Utilizing 1040 kHz will destroy a very valuable service provided by WHO for the hundreds of thousands of farmers and other radio listeners around the country in the event that Cuba carries out its threat. If the State Department and other government officials determine that there is no real threat, then Radio Marathon should be utilized because of the cost savings as well as many other benefits that this alternative presents. If the Cuban retaliation threat is real and imminent, then we must not waste taxpayers money by building Radio Marti, as well as allow the destruction of a fine farm radio service. Instead, a workable alternative must be developed.

Thank you for this opportunity to present my views. I appreciate your consideration.

[LETTER FROM MARK S. FOWLER, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION]

MAR 19 1982

Honorable Jim Leach
U.S. House of Representatives
Washington, D. C. 20515

Dear Congressman Leach:

I have been personally following developments concerning the establishment of Radio Marti. The decision to establish Radio Marti was made by the Office of the President, and the Federal Communications Commission was not directly involved in the decision. However, I wish to lend my support for this important project.

I have been apprised of Cuba's stated intent to operate one of its planned 500 kW transmitters on the same frequency as Radio Marti, 1040 kHz. If such operation actually occurs, destructive interference to the nighttime service area of WHO, Des Moines will result. I am advised that when 1040 kHz was selected for Radio Marti, Cuba had not announced plans to operate a 500 kW transmitter on this frequency, although, they had announced plans for 500 kW transmitters on two different frequencies.

There do not appear to be any simple alternatives to resolve this potential problem. However, I want to assure you that the Commission stands ready, as it has in the past, to render assistance if called upon.

Thank you for your interest in this matter.

Sincerely,

Mark S. Fowler
Chairman

April 8, 1982

Mr. Mark Fowler
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 29554

Dear Mr. Chairman:

The matter of the government's contemplation of constructing Radio Marti on 1040 KHz has come to my attention. I have, along with a number of my colleagues, several concerns about the wisdom of proceeding with this station and having it operate on this frequency.

As you know, the matter of Cuban interference with domestic radio broadcasting is already a concern before the Commission. It is feared that the construction of Radio Marti will precipitate Cuban retaliation to Radio Marti's broadcasting such that the Cubans would construct powerful stations that would block the coverage of certain U.S. stations during hours of darkness. Of prime concern is WHO, Des Moines, IA, which operates on the same frequency as that projected for Radio Marti, 1040 KHz. The National Association of Broadcasters projects that should Radio Marti proceed and Cuban retaliation begin, WHO's coverage would shrink from 1,714,337 square miles to 5,926 square miles. This has serious implications for rural and agricultural listeners who depend upon WHO broadcasts in a huge section of the country for accurate agricultural reports. My hometown of Dallas would even be prevented from receiving WHO.

It is my hope that the Commission will give serious consideration to these concerns and keep me apprised of the on-going evaluation of whether or not to proceed with Radio Marti.

Best of luck to you,

James M. Collins, M.C.

[LETTERS TO THE PRESIDENT AND MEMBERS OF CONGRESS EXPRESSING CONCERN OVER LOSS OF WHO'S FARM AND WEATHER BROADCAST SERVICE]

March 31, 1982

The President of the United States
The White House
Washington, D. C. 20500

Dear Mr. President:

I am writing to express my concern about the intention of the Presidential Commission for Broadcasting to Cuba to use the radio frequency of 1040 kHz for its programming on "Radio Marti". As you may recall, this frequency is the same one used by WHO radio in Des Moines for its clear channel broadcasts.

It is my understanding that the Cuban government has announced plans to operate a 500,000 watt AM station on this same frequency in order to counter "Radio Marti's" programming. This Cuban response will have the effect of jamming WHO's broadcasts and reducing its evening and nighttime coverage from 800 to 45 miles. In addition to this tremendous loss of audience for WHO, I believe the Cuban operation on this frequency would seriously hamper Iowa's ability to react to natural disasters such as tornadoes and to implement civil defense procedures during a military attack since WHO radio is the state's primary vehicle for informing the public and other radio stations during a crisis.

In view of the irreparable loss of farm news, grain and livestock markets, and weather reporting service hundreds of thousands of midwestern farm families would suffer if WHO's broadcasts are jammed, as well as the potential harm to our disaster assistance efforts, I urge you to instruct your staff to review this matter and to identify another radio frequency which might be used to carry this programming to Cuba.

Thank you very much for your attention to this important matter.

Sincerely,

Robert D. Ray
Governor

April 6, 1982

The Honorable Ronald Reagan
President of the United States
The White House
Washington, D. C. 20500

Dear Mr. President:

This communication from me is a letter of concern to you and I want to express the same concern to the two Iowa Senators and six Iowa Congressmen, as well as U. S. Secretary of Agriculture John Block and Deputy Secretary of Agriculture Richard Lyng, concerning some of the proposals that have been forthcoming from the "Radio Marti" governing body. "Radio Marti" is your Presidential Commission on broadcasting to Cuba and the 10 members were appointed by you on January 19, 1982. Soon after the appointment of your commission, the commission began to attempt to free themselves of any State Department control and have recently been discussing a 50,000 watt AM station designated as "Radio Marti" which would operate on WHO's frequency of 1040 kHz.

We understand the purpose of "Radio Marti" is to tell "...the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this Hemisphere and elsewhere..." Although this effort may somehow serve our national interest, it will also surely antagonize the present Cuban administration. Thus, it appears certain the Cuban government will carry out their proposed 500,000 watt AM station jam "Radio Marti." Unfortunately, in doing so, they will also jam the early evening, nighttime and pre-sunrise broadcasts of WHO, depriving 114,000 Iowa farm families, and thousands of others in surrounding states, of the excellent farm service programs the station broadcasts during those hours.

We are also advised the "Voice of America", a State Department agency, presently owns another 50,000 watt AM station, now operating on the former I-A Clear Channel of 1180 kHz, identical to that proposed for "Radio Marti", which now operates on the former I-A Clear Channel of 1180 kHz, from a site no more than 30 miles from that under consideration for the latter. That station is already beamed toward Cuba. We also understand it operates no more than 6 hours per day, and could be readily used for the proposed "Radio Marti" effort.

In view of the irreparable loss of farm news, grain and livestock markets, and weather reporting service, hundreds of thousands of midwestern farm families would suffer if WHO's early evening, nighttime and pre-sunrise broadcasts are jammed, we urge you and your colleagues to aggressively propose reassignment of the "Radio Marti" effort to the frequency of 1180 kHz. To precipitate the jamming of WHO's highly regarded farm and agricultural broadcasts would be a disservice to hundreds of thousands of midwestern farm families vitally in need of this reporting service on a regular and daily basis.

We shall appreciate your support of our position on this matter.

With my kindest personal regards, I remain

Sincerely yours,

Bob

Robert H. Lounsberry
Secretary of Agriculture

April 7, 1982

This same letter sent to our 2 Senators,
6 Congressmen, Secretary Block and Deputy
Secretary Lyng.

Honorable Roger Jepsen
5327 Dirksen Senate Office Building
Washington, D. C. 20510

Dear Roger:

I am enclosing a copy of the letter I sent to President Reagan regarding the issue of "Radio Marti." I feel that WHO has provided a tremendous service to the citizens of Iowa, particularly the rural population through their farm broadcasting service.

The proposal by the Presidential Commission to use "Radio Marti" on a separate channel 1040 kHz will definitely shrink the ability of farm broadcasts during those critical hours to reach out in the radius it now covers. In fact, in eastern, northeast and northwest Iowa our Iowa stations will not have the benefit of the farm broadcast service, whereas now that service reaches out into a wide radius to the Canadian border, as far east as western New York and Pennsylvania, as far south as Louisiana, and as far west as Wyoming and Colorado.

I hope that you will try and urge the Presidential Commission to use the principal option available in the best interests of the economy and service to Iowa and to other areas which WHO currently serves.

Thank you for your support on this issue.

Sincerely,

R. H. Lounsberry
Secretary of Agriculture

March 31, 1982

The Honorable Ronald Reagan
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

We are concerned about the effect of the government's proposal to establish Radio Marti on the same frequency as Radio Station WHO in Des Moines.

Many farmers throughout Iowa and the Midwest depend upon WHO for farm news, grain and livestock and weather reporting at all hours of the day.

It is our understanding that the Cuban government has announced plans to jam the proposed Radio Marti station with a 500,000 watt AM station on the same frequency. If this occurs, the effective signal for Station WHO on frequency 1040 will be reduced to 45 miles during early evening, nighttime and pre-sunrise broadcasting.

We've been told that the State Department already has a 50,000 watt AM station that operates no more than 6 hours per day on the 1180 frequency. It seems logical to use this facility which is located near the proposed site of the new station in Florida and which is already beamed toward Cuba.

In this period of overwhelming need for restraints on federal spending, the decision to use an existing facility and already-assigned frequency makes economic sense. To spend additional money and risk the jamming of WHO's highly regarded farm and news broadcasts would be costly to Iowa farmers, Iowans and taxpayers.

We respectfully ask that you favorably consider our request to protect a valuable domestic broadcast station's service to Americans while finding a way to communicate the truth to the Cuban people.

Sincerely,

Dean Kleckner

Dean Kleckner
President

March 31, 1982

Honorable Ronald Reagan
The President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

I speak for a half million people who produce $9 billion worth of pork annually. Our industry is concentrated mainly in the 14 central and midwestern states. People are dependent on several radio stations for their marketing information and make their marketing decisions on a daily basis. Owner manager station WHO in Des Moines that you are originally familiar with has a frequency 1040 kHz.

Representatives of Palmer Communications, Inc., licensee of Radio Station WHO, Des Moines, have advised the Cuban government to announce plans to operate a 500,000 watt AM station on WHO's frequency of 1040 kHz, jamming its broadcasts and reducing its early evening, nighttime and pre-sunrise coverage from 800 to 45 miles. The apparent purpose of the Cuban plan is to jam the 50,000 watt AM station, designated as "Radio Marti", the Department of State also proposes to operate on WHO's frequency of 1040 kHz, and directionalize toward Cuba.

We understand the purpose of "Radio Marti" is to tell ". . . the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this Hemisphere and elsewhere . . ." Although this effort may somehow serve our national interest, it will also surely antagonize the present Cuban administration. Thus, it appears certain they intend their proposed 500,000 watt AM station to jam "Radio Marti". Unfortunately, in doing so, they will also jam early evening, nighttime and pre-sunrise broadcasts of WHO, depriving 114,000 Iowa farm families, and thousands of others in surrounding states, of the excellent farm service programs the station broadcasts during those hours.

We are also advised the "Voice of America", a State Department agency, presently owns another 50,000 watt AM station, now operating on the former I-A Clear Channel of 1180 kHz, identical to that proposed for "Radio Marti", which now operates on the former I-A Clear Channel of 1180 kHz, from a site no more than 30 miles from that under consideration for the latter, that is already beamed toward Cuba. We also understand that station operates no more than 6 hours per day, and could be readily used for the proposed "Radio Marti" effort.

In view of the irreparable loss of farm news, grain and livestock markets, and weather reporting service hundreds of thousands of midwestern farm families would suffer if WHO's early evening, nighttime and pre-sunrise broadcasts are jammed. We urge you and your colleagues to aggressively propose reassignment of the "Radio Marti" effort to the frequency of 1180 kHz, and the "Voice of America" outlet to another. To precipitate the jamming of WHO's highly regarded farm and agricultural broadcasts would be a disservice to hundreds of thousands of midwestern farm families vitally in need of this reporting service on a regular, and daily basis.

We shall appreciate your support of our position on this matter.

Sincerely,

Orville K. Sweet
Executive Vice President

March 26, 1982

The President
The White House
Washington, DC 20500

Dear Mr. President:

The Iowa Corn Growers Association would like to bring to your attention a situation that we feel has severe implications to the majority of the 110,000 Iowa corn producers.

We understand the Department of State plans to operate a 50,000 watt AM radio station designated as "Radio Marti" on a frequency of 1040 kHz. Proposed programming is directed toward the people of Cuba. Additional information we have obtained indicates that if such a station would operate, the Cuban government would jam that frequency with a signal being broadcast from a 500,000 watt station. Such a situation would seriously affect a major farm radio station in Iowa, WHO, operating on their assigned frequency of 1040 kHz.

We can appreciate the need to provide the Cuban people with accurate and reliable information about their government, however, the adverse effect this will have on Iowa agriculture we feel merits selecting another alternative.

Jamming of the 1040 kHz frequency would prevent farmers in a 200 mile radius of Des Moines from receiving the WHO farm programming from dusk to dawn. Of major concern to us is the weather reporting services during late evening and early morning hours in the planting and harvesting seasons. Obviously, during these seasons of the year the weather conditions are very critical to farmers and they depend on the pre-dawn radio weather reports to determine work activities for the day. WHO has devoted substantial resources to provide sophisticated weather reporting services that are needed by farmers. The loss of this information to Iowa farmers could cause considerable financial losses to these grain producers as well as affect the U.S. and world food supplies in a drastic manner.

Additionally, farmers depend upon the timeliness of radio for much of their market information and farm news. Most of the farm news is provided in the time slots of 5:30 a.m. to 6:30 a.m. and during the noon hour. Thus, interference on the 1040 frequency during early morning hours would prevent most farmers in Iowa from receiving the critical market information plus coverage of issues that you and your Administration have selected as high priorities such as soil conservation, increased agriculture exports, additional basic research related to agricultural production and marketing and a short-term priority of farmer awareness and participation in the 1982 farm program.

We are advised that an alternative to the present plan is available. The "Voice of America" presently operates a 50,000 watt station on the frequency of 1180 kHz within a short distance from the proposed "Radio Marti" site. Additionally this station operates no more than six hours per day and could be used for the project "Marti" effort.

Mr. President, based on the serious consequences that the loss of WHO weather, market and farm information would have on Iowa's farmers and the economy, we strongly urge you to encourage the Department of State to chose an alternative to the present 1040 kHz "Radio Marti" proposal.

Sincerely,

Dan Stadtmueller

Dan Stadtmueller
President

March 26, 1982

The Honorable John Block
Secretary of Agriculture
U.S. Department of Agriculture
14th & Independance Street, S.W.
Room 200-A
Washington, DC 20250

Dear Jack:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

Thurman Gaskill
Director

March 29, 1982

The Honorable Seeley Lodwick
Under Secretary for International
Affairs & Commodity Programs
14th & Independence Avenue, S.W.
Room 212-A
Washington, DC 20250

Dear Seeley:

Enclosed is a letter to President Reagan regarding interference by the State Department on WHO Radio's assigned frequency of 1040 kHz. As you are familiar, Iowa farmers are very dependent on Keith Kirkpatrick, Lee Kline and Mark Pearson for weather, markets, and farm news. As Dan points out in his letter, WHO has been a key communication link to farmers to inform them of the programs and policies of the USDA. Of special significance to your area of responsibility, WHO has always placed heavy emphasis on the need for exports as indicated by their coverage of the recent corn checkoff referendum.

Seeley, in light of the other alternatives available, I would hope the State Department could be pursuaded to select an option that would not cause such an impact on Iowa agriculture. We would appreciate any efforts you could make to assure proper attention is brought to this matter.

Sincerely,

Keith Heffernan
Executive Director

March 26, 1982

The Honorable Roger W. Jepsen
United States Senate
110 Russell Senate Office Building
Washington, DC 20510

Dear Senator:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

Jack Parsons
Disector

March 26, 1982

The Honorable Berkley Bedell
U.S. House of Representatives
2440 Rayburn House Office Building
Washington, DC 20515

Dear Berk:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

Riley Gillette
Director

March 26, 1982

The Honorable Charles E. Grassley
United States Senate
344 Russell Senate Office Building
Washington, DC 20510

Dear Chuck:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

J. Howard Mueller
Director

March 26, 1982

The Honorable Cooper Evans
U.S. House of Representatives
317 Cannon House Office Building
Washington, DC 20515

Dear Coop:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

J. Howard Mueller
Director

March 26, 1982

The Honorable Jim Leach
U.S. House of Representatives
1406 Longworth House Office Building
Washington, DC 20515

Dear Jim:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

As you can see, I have a rather strong opinion on this matter as I know you have. I hope this letter will aid your efforts in regard to this issue.

Sincerely,

Dan Stadtmueller
President

March 26, 1982

The Honorable Thomas J. Tauke
U.S. House of Representatives
319 Cannon House Office Building
Washington, DC 20515

Dear Tom:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

As you can see, I have a rather strong opinion on this matter. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

Dan Stadtmueller
President

March 26, 1982

The Honorable Tom Harkin
U.S. House of Representatives
2411 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Harkin:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

Robert Boyle
Director

March 26, 1982

The Honorable Neal Smith
U.S. House of Representatives
2373 Rayburn House Office Building
Washington, DC 20515

Dear Neal:

The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

Woodrow Diehl
Director

March 25, 1982

Ronald Reagan, President
United States of America
The White House
Washington, D.C. 20500

Dear Mr. President:

WHO Radio of Des Moines, the station on which I used to hear your broadcasts of the Drake Relays, is in serious trouble if the Department of State goes ahead with plans for "Radio Marti" on a frequency of 1040 kHz.

Proposed jamming of "Radio Marti" by the Cubans would effectively eliminate early morning and late evening broadcasts of farm markets, weather, and news so vital to midwest agriculture.

Iowa's Clear Channel WHO Radio has an outstanding farm department that provides needed, up to the minute agricultural information. Interruption of this service would mean the loss of a valuable news source on which farmers make costly decisions.

There must be a better way!

Thank you for your serious consideration of this matter.

Sincerely,

Raymond Heck

Raymond Heck
President
Iowa Soybean Association

April 1, 1982

The President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

Recently I became aware of the State Department's plan to operate a 50,000 watt AM station, designated as "Radio Marti." Also, according to information I have received, "Radio Marti" would operate on a frequency of 1040 khz, the same as radio station WHO of Des Moines, Iowa.

I understand the purpose of "Radio Marti" is to tell ". . .the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this hemisphere and elsewhere. . ." While I believe the Cuban people have a right to hear this information, and while it may serve our national interest, Mr. Castro most assuredly would not stand idly by. In fact, he has announced plans to jam "Radio Marti" broadcasts with a 500,000 watt AM station, also using the 1040 khz frequency.

Who, then wins this political battle of the airwaves? No one. But there are losers - those being radio station WHO and the hundreds of thousands of midwestern farmers who depend on their early evening, night-time and pre-sunrise broadcasts. Farmers, as you know, Mr. President, depend on accurate weather and market information, and here in the midwest they have counted on WHO for over 50 years to bring this information to them.

I also believe, Mr. President, that to ask taxpayers to foot the bill for this multi-million dollar project that will not achieve its goal due to Castro's plan to jam the station is wrong.

Thank you for your time and consideration of this matter.

Sincerely,

Keith R. Maxey

Keith R. Maxey
Executive Secretary

PRESS STORIES

[FROM BROADCASTING, SEPTEMBER 28, 1981]

Radio Free Cuba

U.S. government plans AM station to broadcast 'truth' into Castro's home territory; effect on western hemisphere spectrum negotiations feared

The Reagan administration has decided to combat what it calls the Cuban government's "lies" to its people by establishing an AM station to broadcast news and commentary on Cuba into the island nation. "Radio Marti"—named after a hero of the Cuban war for independence from Spain in 1900—is to begin broadcasting in January. But many of the details of its operation remain to be settled by a presidential commission still to be established.

However, senior officials who briefed reporters on the project last week said the station will operate under a structure similar to that of Radio Free Europe and Radio Liberty, which broadcast news of Eastern Europe and the Soviet Union, respectively, into those areas. They said Congress will be asked to enact the necessary legislation as well as to approve the use of $10 million of State Department funds to finance the first year's operation of Radio Marti.

The officials said the station, which will broadcast in Spanish, would operate under a normal FCC license, but they could not identify the frequency to be used, or the power, or the location, or even whether there would be one or two transmitters. Indications are, however, that Radio Marti would start small—a virtual necessity since the commission that will plan and organize its operation is not scheduled to submit its recommendations and final report until Oct. 1, 1982. One of the senior officials said Radio Marti might initially buy time on existing stations.

Richard V. Allen, President Reagan's national security adviser, said in a statement that the purpose of Radio Marti is to break the monopoly on news in Cuba the government has had since Fidel Castro assumed power more than 20 years ago: "This radio service will tell the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this hemisphere and elsewhere."

Announcement of the administration's plans for Radio Marti caused some uneasiness among U.S. officials preparing for the six-week conference of western hemisphere nations on AM broadcasting, to begin in Rio de Janeiro on Nov. 9. A major cause of concern has been Cuban plans for 180 new stations, many of very high power. U.S. officials have been hopeful they could persuade the Cubans to modify their plans in a manner that would assure the island of service without causing serious interference to U.S. stations. "Radio Marti won't help us in our problems with Cuba," said one official.

The administration was aware of those problems, but appears to have concluded there would be no point in letting consideration of them alter its plans for Radio Marti. One of the officials who briefed reporters noted that the Cubans in 1977 announced plans for two 500 kw transmitters, whose operation would violate an agreement with the U.S.

"We are not at all certain what will influence the Cuban government's attitude," the official said. It could use Radio Marti "as a scapegoat" to explain its position. "We note only that at a time when we were trying very much to improve relations with Cuba, in 1977, it announced plans for the two large stations."

An FCC official, who said the commission was not aware of those plans until last year, said neither station is yet on the air.

[FROM BROADCASTING, NOVEMBER 2, 1981]

Radio Marti plans move ahead despite concerns of some U.S. diplomats

Government AM service aimed at Cuba continues to evolve; station may be on 1040 khz

The Reagan administration decision to establish a radio station in Florida to broadcast news of Cuba into the island nation is said to have provoked expressions of concern from U.S. diplomats in Havana. However, State Department officials say the objections being raised were considered when plans for the AM radio service were being formulated but were not found to be persuasive. In that connection, one official indicated the U.S. questions whether Cuba can deliver on its at least implied threat to put very-high-powered AM stations on the air.

The *New York Times* last week reported that the United States Interests Section in the Swiss embassy in Havana had told the State Department that Radio Marti—named after a Cuban patriot, Jose Marti—might prove counterproductive. They said it could generate a new wave of Cuban immigration to the U.S., when the U.S. is trying to stem illegal immigration, and lead to reprisals by Cuba.

Those were among the factors considered when the decision was made to proceed with Radio Marti, a State Department official said last week.

As for sparking a new exodus from Cuba, he said the programing would not be designed to promote one. Officials have said the Spanish-language station would break the monopoly on news they say Fidel Castro has held for more than 20 years. However, Richard V. Allen, President Reagan's national security adviser, in announcing plans for Radio Marti, also said it will "tell the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion" abroad (BROADCASTING, Sept. 28).

And as for reprisals—Cuba is said to be preparing to establish a number of high-powered AM stations, including two of 500 kw—the official said it is not clear that Cuba has the necessary resources. "From a practical point of view," he said, "the amount of power that would be required doesn't leave much for electric light and heat. It's a significant taxing of the system."

Radio Marti is scheduled to begin operating in January. And a private, nonprofit corporation has been formed (see page 48) to operate it along the lines of Radio Free Europe and Radio Liberty, which broadcast news of Eastern Europe and the Soviet Union, respectively, into those areas. The new corporation is not scheduled to submit a final report and recommendations until Oct. 1, 1982. Start-up and first-year operating costs will be $10 million.

Most of the technical details of Radio Marti remain to be disclosed, if indeed they have been developed. However, one report circulating in Washington last week was that Radio Marti would operate on 1040 khz, the clear channel on which WHO(AM) Des Moines, Iowa, is the dominant station. The State Department official said a final decision on a frequency has not yet been made. But he said 1040 khz "looks the best" of those under consideration.

Cuban project. Private corporation has been formed in Washington under auspices of State Department to oversee proposed "Radio Marti" broadcasting to Cuba (BROADCASTING, Sept. 28). New "Committee for Radio Broadcasting to Cuba" was announced at hearing before House Subcommittee on Government Information and Individual Rights chaired by Representative Glenn English (D-Okla.) Committee trustees include William Steadman, retired ambassador; Robert Zimmerman, former foreign service officer, and Midge Decter, writer.

[FROM BROADCASTING, NOVEMBER 9, 1981]

AM future on the table in Rio

Western hemisphere conference opens with conflicting spectrum claims, Cuban-U.S. differences, lingering thoughts of 9 khz

As representatives of some 30 western hemisphere countries gather today in Rio de Janeiro for the start of the second session of a conference on AM broadcasting, the thought uppermost in the minds of American delegates seems to be not as much what the U.S. can gain as whether it can avoid apocalypse now. Asked last week to describe the American goal for the conference, Kalmann Schaefer, the FCC's adviser on international communications who heads the delegation, said, "The preservation of the American broadcasting system."

The conference, which over the next six weeks is to develop a plan for Region 2 countries' use of the AM band, does seem freighted more with peril than with promise. With the most advanced and efficient system of AM broadcasting in the hemisphere—and with demands for new assignments that never seem satisfied—the U.S. faces the prospect of losing service, perhaps on a large scale.

The good neighbor to the north is pressing for a five-year plan to bring new stations into the regional scheme, a plan the U.S. feels would waste spectrum space. Canada also has AM needs that conflict with those of the U.S. So do Mexico and other countries in Latin America. (The U.S., of course, encompasses Puerto Rico and the American Virgin Islands.)

But it is Cuba that has emerged as the primary menace to U.S. AM service. Among the 180 operating and proposed stations in the Cuban inventory are many that could cause serious interference to AM outlets not only in the Southeastern U.S. but also throughout the country. Cuban stations, in violation of treaty, already interfere with U.S. stations. (In what seems an incipient power war, five stations in Florida have been given special permission by the FCC to increase power as a means of regaining service lost to Cuban interference.)

And if Cuba were not problem enough, the Reagan administration compounded it in September when it announced plans to establish an AM station in Florida to broadcast the American version of events in Cuba to that island country (BROAD-

CASTING, Sept. 28). Whatever hopes Americans once had of persuading Cuba to take a more conciliatory position in Rio, some members of the U.S. delegation feel, were diminished by that announcement.

Nor is that the only handicap the U.S. has given itself. Another involves channel spacing. At the first session of the conference, in Buenos Aires in March 19 the U.S. worked hard for the adoption its proposal to reduce channel spac from 10 khz to 9 khz. The failure of t U.S. to win a consensus for the propo was fortunate, in at least one respect. made it easier for the new, Reagan FCC disavow the proposal that the National A sociation of Broadcasters had vigorous opposed and that Mark S. Fowler h questioned even before assuming office chairman of the FCC, in May. But t American delegation now faces the task persuading countries that have warmed t the 9 khz idea that the U.S. had bee wrong in advancing it. U.S. delegates wi argue that new studies have demonstrate that the financial and technical costs ou weigh the benefits.

The conference is expected to deal wit the channel-spacing issue early, perhaps the first week. Although the decision o the FCC to reverse gears and align th U.S. with Canada and Argentina, among others, in favoring retention of the 10 kh plan, appeared to have settled the matte for the conference for all practical purposes, Schaefer and others on the delegation insist they cannot be sure that is the case. The U.S. has no hard information on how most countries will vote on the issue, Schaefer said. "We caution everyone on premature optimism." Members of the

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The conference is the product of the expressed needs of countries in Latin America for a plan to permit orderly growth of AM service; stations are interfering with one another across national borders. The U.S., which has resolved its AM problems with its neighbors in a series of agreements, was reasonably comfortable with things as they were; at most, it felt difficulties could be resolved in bilateral or multilateral meetings. But so strong was the urge for a general conference to draft a regional plan that the U.S. a few years ago was unable even to persuade the other countries in the hemisphere, including Canada, to delay the conference to allow for additional preparation.

The first session, of three weeks, in March 1980, laid the technical basis of the plan; the conferees tentatively approved technical standards and criteria—class of emission, frequency tolerance, protection ratios, and the like—and did some preliminary planning.

In Rio, the conference will complete work on the underlying agreement governing operation of the plan—how new assignments will be added to the plan, for instance—as well as on any unresolved technical issues, such as channel spacing. But for most of the six weeks, the delegations will be computer-deep in what Wilson LaFollette, chief of the FCC's technical and international branch and a vice chairman of the delegation, likes to call "horse trading."

Some 13,000 stations either on the air or expected to be operational by Dec. 31, 1982, are in the so-called basic inventories of the countries of the hemisphere. The five-year inventories submitted by the U.S., Canada and only a handful of other countries for use in the event a five-year plan is formally adopted, contain thousands more proposals. Sorting out and resolving the incompatibilities confront the delegations with the prospect of long and tiring days. (DuCharme talks squeezing eight weeks of work into si

Take one hypothetical: The U.S. Canada face a conflict between two posed stations, one in Washington s and the other in Vancouver. Woul change in power of one or the other enough to resolve the conflict? Wh one? Or would directionalized patterns the trick. Or perhaps the Canadians wo give up on their proposal in return similar consideration by the Americans another incompatibility. Then, too, parties might later decide to rework wh ever agreement was reached as part o solution to another conflict. (Inco patibilities between existing and propos stations would probably be easier resolve; the existing one is expected to accorded priority.)

The success of such negotiations enhanced by friendly relations. In the ca of the U.S. and Canada, Schaefer a DuCharme say that good feelings ex But even the U.S. and Canada may ha reason to be wary of each other. To the d comfiture of the U.S., Canada has a nounced its intention to abrogate t North American Regional Broadcastir Agreement, which governs U.S.-Canadi use of the AM band and, among oth things, requires the two countries to pr tect each other's clear channels to t border. (Canada will abrogate the tre when the new regional agreement is cor pleted, but a new subregional understan ing between the two countries is likely Canada was demonstrably upset when th FCC, in May 1980, broke down the U.S. 25 clear channels and opened them to ap plications for new nighttime service b U.S. broadcasters. Canada had had its ey on those frequencies as a possible resourc to meet some of its own needs DuCharme last week described the FC action as "arbitrary," and said the U.S. an Canada had "had a loose understanding that they would discuss the future use o the clear channels before the U.S. too final action on them.

However, DuCharme seemed deter mined to put any hard feelings aside "Each of us [Canada and the U.S.] ha done his homework and we're optimisti about using each other's clears [Canad has seven, including one it shares with Mexico.]" he said. "In only a few places will one of us have to gulp and swallow something we don't like."

Swallowing something unliked could mean that, in some cases, broadcasters in the U.S. will have to change their operations to comply with the new plan.

Wallace Johnson, executive director of the Association of Broadcast Engineering Standards and a senior adviser on the U.S. delegation, is sensitive to the potential problems. "We have a lot of stations operating for years with directional antennas; it will be difficult to tell them to change [operations]. All of our stations are giving required protection, so any change will require other changes. We have to keep that to an absolute minimum," then he added: "We have a going system to protect."

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Canada is not the cause of concern in that connection, although Schaefer cited it along with Mexico and countries in Central and South America as among those whose stations—operating and proposed—include a number that are incompatible with some in the U.S. The main cause of concern is Cuba.

Cuba lists 180 stations in its inventory. Of those, some 60 are said to be proposed (although U.S. officials say it is difficult to be precise as to which are operating and which are planned). Two of the proposed stations would be 500 kw behemoths that, when activated (on 550 khz and 1010 khz) would be heard as far away as Alaska and Hawaii. And Cuba says it intends to increase the power of many existing facilities. All told, the inventory is viewed as a possible recipe for devastating interference to stations across the U.S. Some observers express doubt about the seriousness of the Cuban's proposals, and suggest they're a bargaining ploy. But FCC Broadcast Bureau Chief Richard Shiben, when he was urging broadcasters last spring to take a hard, objective look at the 9 khz proposal, said he doubted American interests could be protected under the 10-khz plan, and added: "I'm scared to death of the Cuban inventory. It can be disastrous" (BROADCASTING, April 13). Last week, LaFollette put the thought in more measured terms: "The proposed changes in existing stations alone show potentially there's going to be considerable interference if they're implemented."

The problem is already serious in Florida. Matthew L. Leibowitz, general counsel of the South Florida Radio Broadcasters Association, said he has talked to officials of some 20 stations in the state who complained of Cuban-caused interference. Some are considering requesting FCC permission to increase power, as five stations—WPOP Pinellas Park, WINZ, WIOD and WQBA, all Miami, and WKAT Miami Beach—have already done and as WGBS Miami is seeking to do. Others are stymied, either because a power increase would cause interference with a domestic station or because of the heavy financial burden involved.

The U.S. is not without leverage in the matter. Cuba regards some U.S. stations, including those given special permission by the FCC to increase power, to be interfering illegally with some of their operations. As a result, that concern will be part of the negotiation, according to William Jahn, of the State Department's office of international communications policy and a vice chairman of the U.S. delegation. "They consider the interference a mutual problem," he said. (Technically, the five Florida stations are in violation of NARBA, which was designed to govern U.S.-Cuban as well as U.S.-Canadian relations. But the Fidel Castro government has denounced and ignores the treaty signed by the regime it replaced in 1959.)

Compounding the problem is the decision by the first session of the conference to adopt a looser interference standard than the U.S. and Canada consider desirable. While these countries argued for a standard permitting nighttime interference only 10% of the time, the standard tentatively approved permits it 50% of the time. The U.S., Canada and Mexico have agreed to operate under the 10% standard, which now prevails among them, and they will seek to persuade other countries in Rio to adopt it for themselves. But, as things stand, Cuban stations abiding by the 50% standard could cause interference to U.S. outlets.

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For a time, after a meeting with Cuban technicians in Washington, in August, members of the U.S. team expressed optimism about negotiations with the Cubans. Schaefer said both sides were "receptive and forthcoming in identifying viable technical options for resolving or minimizing interference problems" (BROADCASTING, Aug. 31). He was referring to the use of directional antennas and possible reductions in power. Even the publication in the *New York Times*, during the Cubans' visit, of a leak that the Reagan administration planned to establish an AM station to broadcast to Cuba news concerning its internal developments did not appear to disturb the visitors.

But last week, the optimism of August appeared to have evaporated. A White House announcement in September of plans for the new outlet, to be called Radio Marti, after Jose Marti, a Cuban journalist, poet and lawyer who was a hero of the fight for independence from Spain, had dismayed some members of the U.S. delegation, as well as others in the hemisphere worried that a confrontation between Cuba and the U.S. would stall the work of the conference. Washington has had no word on how Cuba would react at the conference—other than press reports of Fidel Castro's denunciation of the project. But Canadians following developments are known to feel that the announcement that the U.S. intends to launch what could be considered a propaganda campaign against Cuba over an AM facility in January will dampen if not kill any chance of compromise with Cuba; they say the Americans have left the Cubans no room for a graceful retreat.

Publicly, at least, the U.S. delegation seems determined to ride out any storm. Schaefer said he wasn't sure that Radio Marti would even be a problem. "We will treat the requirements of Radio Marti as any other requirement," he said cooly. When reminded that the problem is likely

Cuban option. William F. Rust Jr., of the Rust Communications Group Inc., has a suggestion for President Reagan's "budget balancers" in connection with the administration's proposal to establish an AM facility—Radio Marti—to broadcast news of Cuba to that country. The U.S., Rust noted in a letter to BROADCASTING, has had a "Radio Marti" operating at Marathon on the Florida keys for almost 20 years—a Voice of America outlet whose directional antenna is aimed at Cuba. So millions of dollars could be saved, he said, either by using the Marathon installation for Radio Marti or by closing Marathon down.

Rust is not a disinterested observer. Radio Marathon operates on 1180 khz, the frequency on which Rust Communications; WHAM(AM) Rochester broadcasts. And Rust said Radio Marathon has been "costing taxpayers money and interfering with WHAM illegally for 19 years." Rust said his company tried for years to have the Marathon station closed down, but finally gave up.

The station is the survivor of several stations the U.S. put on the air to broadcast to Cuba during the Cuban missile crisis of 1962.

to be political rather than technical, he sniffed, "It's up to the Cubans how they want to approach this. We don't consider Radio Marti an issue on a political level."

Whatever else can be said of the announcement on Radio Marti, it was not made in ignorance of the fact a U.S. delegation was preparing to enter delicate and difficult negotiations with Cuba on use of the AM band. The risk to those negotiations was recognized, and accepted, according to William C. Salmon, special assistant to James Buckley, under secretary of state for security assistance, science and technology, the official responsible for coordinating U.S. policy and telecommunications matters.

"All of the factors were reasonably understood and given fair hearing within the confines of the executive branch," Salmon said. "There's a lot behind the decision to proceed [with Radio Marti]," he added. Couldn't the announcement have been delayed until, say, January, and thus avoid the danger of exacerbating relations between the countries during the Rio conference? The goal, Salmon said, was to establish Radio Marti in January, the month of Marti's birth. To do that, preparatory work, including the task of obtaining congressional approval of $10 million in start-up and first-year operating costs, had to begin in September. (It's possible, however, the January start-up date will be missed; the administration has yet to approach Congress on the issue.)

Salmon and members of the delegation are clinging to the hope that the Radio Marti issue will not contribute to a politicization of the conference. But he also said the administration is prepared in the event the weather turns political. The delegation, he said, in effect, won't be abandoned. "We will keep close tabs on developments. I'll backstop, and Secretary Buckley is behind me." Salmon also said other senior officials of the department will be available for help, if needed. "So the horsepower's there."

(The attention that the administration is paying to the Cuban issue was indicated by Salmon's observation regarding the two proposed 500 kw stations that are frightening so many in the U.S. He said the Cubans may not have sufficient power resources to operate the stations and meet everyday needs for electricity as well.)

Regardless of the State Department's assurances of support, some on the delegation feel the U.S. position in opposing Cuban proposals to establish high-power stations has been weakened. Under International Telecommunication Union regulations, the medium frequencies (the AM band) are to be used only for domestic broadcasts. But Americans citing those regulations as an argument against Cuban stations that can clearly be heard in foreign countries are likely to be lectured by the Cubans on Radio Marti as well as Radio Marathon, the Voice of America station in the Florida keys that has been broadcasting into Cuba for 20 years. Radio Marathon operates on 1180 khz, while 1040 khz is said to be a likely frequency for Radio Marti (BROADCASTING, Nov. 2). "Cuba can say it is retaliating against us," said one member of the delegation.

But perhaps the grimmest assessment of the Cuban problem was given by Schaefer. "Radio Marti aside," he said, "considerable difficulties remain. There's nothing to suggest that the incompatibilities will be resolved. We had a nice exchange of views," he said of the meeting with the Cubans in August. "But no attempt has been made to try to resolve the incompatibilities. Those remain significant difficulties which may not be resolved."

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If the Cuban inventory is seen as holding a threat to the American system of broadcasting, Canada's proposal for a five-year plan—tentatively approved by the first session of the conference—is viewed by the U.S. as an obstacle to the efficient use of the AM spectrum. And while Schaefer insisted the U.S. is not opposed to a five-year plan "in principle," he said it "is not convinced that a five-year plan will accomplish what its proponents say it will—that is, assure everyone's needs will be satisfied."

The U.S. virtually always opposes a priori plans—under which spectrum is reserved for countries' subsequent use—on the ground that as long as frequencies are reserved they are denied those who need and are prepared to make use of them. It favors the demand system—which it follows in making AM assignments—as what LaFollette calls "a living plan," one shaped as needed. Critics, however, call it "first come, first served." And Canada has proposed its plan to make sure Americans will not move today into assignments that Canada might need tomorrow.

Although Schaefer dismissed as "inaccurate" reports (based on talks with members of the delegation) that the U.S. will attempt to "kill" the Canadian proposal, it appears that the Americans have a couple of approaches in mind to undercut the Canadians. One would permit Brazil to take the lead with its alternative proposal for "guaranteed access." Under such a system, any proposed assignment meeting prescribed standards would be allowed into the regional arrangement. (DuCharme says it would be more accurate to describe that as "conditional" access.) Then there is a more direct approach, which Jahn said would demonstrate that a five-year plan would not work as advertised. Given the demand for AM facilities in the U.S. expressed by minorities, daytimers hoping to become full timers and others, Jahn said, the U.S. could "load up" the plan in a way that forecloses orderly growth. "We can either take them all [the assignments] now, or let the system evolve," Jahn said. (What could be called the "wish list" the U.S. submitted as its five-year inventory includes proposals for some 3,700 assignments. However, the delegation was planning to whittle the number down to a more manageable number of between 400 and 600.)

The Canadians fear a third possible approach—that the Americans will simply "drag their feet" during the conference and let the six weeks run out with the work on the plan unfinished. However, the Canadians last week were still bubbling with confidence over what they consider the wisdom of a proposal under which conflicts over future assignments could be resolved in advance. Nor would Canada be satisfied with one five-year plan. It intends to urge the conference to authorize a meeting of the hemisphere countries scheduled for 1986 to adopt a second plan to deal with requirements in the 1987-1992 period.

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But if the problems and responsibilities are heavy, the Americans in Rio at leas have the satisfaction of feeling well prepared, a condition that some delegates t the first session said was absent in Bueno Aires. Schaefer credits Chairman Fowle in large part for the delegation's state o readiness. "He gave it [the preparator work] the highest priority," Schaefer saic "All of a sudden, we had the necessar resources, and we were able to do th necessary catch-up work. We had bee behind. We are prepared to support ou proposals at the conference."

The U.S. will be represented in Rio by 21-member team composed of representatives of government and industry and wi be backed up in Washington by a 17-member home team that will include five industry representatives. Schaefer singled o the nongovernment people for speci praise: "They did a lot of work; their firn spent a lot of money [in supporting them and the intensity of their effort was ur que."

In addition, the Advisory Committee Radio Broadcasting, composed principally of industry representatives, will continue meeting during the conference, both in Washington and in Rio. Vincent Wasilewski, president, National Association of Broadcasters, Ray Livesay of the Daytime Broadcasters Association and Leibowitz are among those expected to visit the delegation. The committee will meet in Rio on Thursday and in Washington on Friday.

But it is the computer support that has been provided for the delegation that may prove to be the star. The Americans, still shaken by what they considered the virtual breakdown of the computer support provided by the ITU's International Frequency Registration Board, in Geneva, during a preparatory meeting last spring, made what Jahn described as a "tremendous" effort to develop independent computer capability. Schaefer said the U.S. is prepared not only to deal with its own problems but also to help other countries resolve theirs. And Jahn said: "We can stand alone without the ITU support. We have developed more extensive computer capacity than the ITU itself."

Broadcasters should take what comfort they can from the top quality of the resources available to the delegation. For with the chairman of the delegation saying that nothing less than "the preservation of the American broadcasting system is at stake" in Rio and with the State Department apparently more concerned with waging a propaganda war against Cuba than with accommodating the needs of the Americans in Rio, the next six weeks are likely to be a time of severe testing.

[FROM THE CHICAGO TRIBUNE, JANUARY 25, 1982]

Propaganda and private enterprise

The Reagan administration professes to believe in private enterprise—in the inherent genius of the profit motive and individual initiative as opposed to the deadening pressure of government bureaucracy. That is the Reagan approach to economic recovery; to foreign aid; to conservation.

But it is not, apparently, the Reagan approach to truth. the administration is hell-bent on spending a sizable amount of taxpayers' cash on a government-run radio station that is to beam "the truth" to the communist-benighted island of Cuba. The administration has named a commission of certified right-wingers to run the station, which is to cost around $10 million a year. It is to be similar to Radio Free Europe and Radio Liberty, which beam their broadcasts to the Soviet Union and the East European satellites.

(The Cuban station war to be called "Radio Marti" in honor of Cuban patriot Jose Marti until it was discovered that he was virulently anti-Yanqui and once wrote of a stay in New York: "I have been in the entrails of the monster." Now the station has no name.)

If Cubans were really being deprived of truth it would be hard to quibble over spending a mere $10 million to give it to them. But they are not. Privately-owned stations in Florida are inundating Cuba with Spanish-language programming that is, by all accounts, heard with enthusiasm all over the island. Such stations as Miami's big WQBA are easily picked up on the island, especially at night and along the northern beaches. Cubans tune in openly and without noticeable interference from the authorities—who also listen to them.

What they get on these private-enterprise stations is pretty much what they want to hear: baseball scores and game broadcasts, the latest Latin music, news of the world and of Cuba, and commercials.

Yes, commercials. The commercials on these commercial stations are probably the most effective propaganda that could possibly be broadcast into Cuba. Through them, the Cubans can find out how much Americans pay for an automobile, how much for clothing, how much for food. They can find out about things that are not available in Cuba at any price, but can easily be had—often at bargain rates—in America. By many accounts, the huge rush of refugees in the Mariel boatlift was not attributable to any yearning for free speech and habeas corpus; it was more like a run on Macy's on sale day.

The Cubans also get plenty of news about Cuba. What is happening inside Cuba is hometown news in Miami and it is broadcast in detail on the Spanish-language stations. Cuban groups in Miami probably know a great deal more about what goes on in their native land than any government-run station could discover, and they are at pains to see that the information is beamed back home.

The Miami stations also handle the news with a convincing impartiality that cannot be expected of a government station that is run by the commission named last week. The intensely right-wing slant of the commission is sure to appeal to Cuban anti-Communists. But most of them are probably already in Miami. The purpose of propaganda is to appeal to Castro supporters and those on the fence, and they are not likely to be influenced by a baldly propagandistic outlet whose bias will be obvious to its listeners. Being suspicious of American motives anyway, it's not likely that Cubans will switch away from the tried-and-true Miami commercial stations.

So the administration should scrap the Cuban propaganda scheme and leave the job to those in Miami who are already doing it well and doing it with private initiative, the way the President says things should be done. The way matters stand these days he can use the $10 million more profitably someplace else.

[FROM THE DES MOINES REGISTER, FEBRUARY 15, 1982]

U.S.-Cuba 'airwaves war' may jam WHO broadcasts

By TOM O'DONNELL

Register Staff Writer

University of Iowa sports fans — especially those in the southeastern part of the United States — someday may tune in WHO radio in Des Moines to hear sportscaster Jim Zabel describing the Hawkeyes and find themselves listening to Fidel Castro.

If so, they can blame a former WHO sportscaster — Ronald Reagan.

A pet project of the Reagan administration — a radio station to beam news and propaganda to Cuba — has triggered threats of a war of the airwaves between the two countries, with WHO a potential early casualty.

The State Department plans to build its radio station in Florida, and to broadcast on AM frequency 1040 — the same one used by WHO. Castro has already said he would jam that frequency, and WHO officials are concerned that their nighttime sports broadcasts and call-in programs may be crowded off the air.

Cuban officials have said they will build a 500 kilowatt station — 10 times as powerful as WHO's signal — to jam the State Department broadcasts. That would wipe out WHO's nighttime transmissions to the southeastern part of the nation.

Robert Engelhardt, vice president and technical director for Palmer Communications Inc., the company that owns WHO, said southern followers of WHO's sports and call-in programs would be lost.

"There's an audience out there, it's loyal, and this has the potential to destroy it," Engelhardt said Sunday.

Although the stretch of the Cuban station's signal would depend on a number of factors, there would be "a substantial amount of interference, that's safe to say," Engelhardt said.

If conditions are right, the Cuban signal could reach even farther than the southeastern states, but Engelhardt said any guess now about how far it could go would be speculative.

Engelhardt said listeners are particularly loyal to WHO's sports broadcasts, following the University of Iowa basketball team in the winter and the Hawkeye football team in the fall. The football games, which are played in the afternoon, are rebroadcast late at night to take advantage of the station's wider nighttime range, he said.

"People who have moved out of the state — graduates and sports buffs — have learned that they can receive that service on WHO," Engelhardt said.

The administration first announced plans for the radio station last September. Richard Allen, then Reagan's national security adviser, said the station would get the truth to the Cuban people because the news broadcasts in that nation "have lied throughout the two decades of the revolution, they lie today and will continue to lie."

Vice President George Bush, speaking to a press association meeting in Rio de Janeiro, Brazil, in October, said, "Castro is terrified at the prospect [of the station]. Actually, I have to confess, the idea gives me enormous pleasure."

The station, called Radio Marti, after Jose Marti, a 19th century fighter in Cuba's war for independence from Spain, would be patterned after Radio Free Europe and Radio Liberty. Those stations broadcast news and propaganda to Eastern Europe and the Soviet Union.

[FROM THE MIAMI-HERALD, MARCH 7, 1982]

Miami may play host to Radio Marti

By JAY DUCASSI
Herald Staff Writer

The presidential commission appointed to organize Radio Marti is considering Miami and two other major American cities as possible sites for the station's headquarters, a commission official has disclosed.

New York and Washington, D.C., are the two other cities that the panel has considered as possible sites, commission assistant director Yale Newman said in an interview after last week's hearings on the project in the House of Representatives.

The discussion of possible sites occurred at the two meetings the commission has held since being appointed last January, Newman said.

The selection of a headquarters, as well as a transmitter site, will be made in the next two months, Newman said. The commission wants to select a transmitter site "as close to Cuba as possible," he said. He named the Florida Keys as one possible location.

At the House hearings a witness and a congresswoman suggested that Radio Marti use a Voice of America facility already in operation in Marathon.

"The commission hopes to have most of the nuts and bolts [of the project] pretty much under wraps around the end of April," Newman said.

The station could be on the air July 1 if Congress approves the project, Newman said. But there is no guarantee that Congress will act by then.

After all, Radio Marti — the Reagan Administration project to broadcast news and entertainment to Cuba — is already months behind schedule. It was initially supposed to have been operating in January.

But when January rolled around, a Congress burdened with more pressing budget questions had not even begun to consider the bills that would authorize the establishment of the station nor its $10 million start-up costs.

Although the House Foreign Affairs Comittee heard testimony Wednesday and Thursday, it set no date for presenting the Radio Marti bill to the rest of the House. A congressional aide said it would be a couple of weeks before this happens.

The bill has yet to come up in the Senate, although Florida Sen. Paula Hawkins, who supports Radio Marti, has sent a letter to the chairman of the Foreign Relations Committee requesting that a date be set to consider the bill.

Static on Radio Marti

RADIO waves travel at the speed of light, but the Government's effort to establish Radio Marti to broadcast "truth" to Cuba would hardly overtake a tortoise. Considering the direction that the infant project is headed, that's a relief. No use rushing a mistake.

As first envisioned, Radio Marti was to have been on the air by now, beaming news and information to Cuba from a transmitter perhaps located in the Florida Keys. Its controversial nature combined with legislative inertia, however, to stall Radio Marti's enabling legislation in Congress.

On Jan. 19 President Reagan named 10 members — including three rabidly anti-Castro Miamians — to the Radio Marti governing body, the Presidential Commission on Broadcasting to Cuba. The ink was hardly dry on their appointment notices before some commission members began agitating to free Radio Marti of any State Department control.

That's Worry No. 1. The conservatives think the State Department is downright pinko, so they want Radio Marti under White House control. There, they figure, they'll find more support for their hard-line broadcasting aims than they'll ever find at State.

Worry No. 2 arose on Wednesday before the House Foreign Affairs Committee, which opened hearings on establishing Radio Marti. Thomas Enders, assistant Secretary of State for Inter-American affairs, hinted that the United States would give tit for tat if Cuba tried to jam Radio Marti's signal to make it unintelligible in Cuba.

Congress can and should head off Worry No. 1 by making clear that Radio Marti is to broadcast straightforward, objective news, not propaganda. Radio Marti should pattern its news broadcasts after those of the Voice of America, which have solid international credence precisely because they are untainted by propaganda.

If the hard-line conservatives on the Radio Marti commission cannot live with this simple credo, let them resign. If Radio Marti starts off as a propaganda service, its value will be lost at the outset. If it beams facts to the Cuban people that their government denies them, however, it can be of immense value. The simple truth always is.

The possibility of the United States and Cuba engaging in an escalating battle of radio-station jamming is just as worrisome. Jamming not only plays hob with the international pacts governing the assignment and use of radio frequencies. It also could disrupt AM radio stations' night-time signals well into the U.S. heartland.

Congress ought to weigh very carefully both the propaganda and the jamming prospects involved with Radio Marti. Legislation cannot deter Cuban jamming, of course, but it can deter those who would subvert Radio Marti's potential by coloring its news with propaganda. It can, and it must.

[FROM BROADCASTING, MARCH 15, 1982]

Will Radio Marti worsen the Cuban interference problem?

That's question raised in hearings on new government service; Florida broadcasters, others want negotiations to avoid harm to their signals, also lessening of U.S. rules to allow fighting back

The fate of American AM broadcasting and U.S. foreign policy as it affects Cuba were closely linked as the House Foreign Affairs Committee held hearings on the Reagan administration's proposal to create Radio Marti. The 50 kw station on 1040 khz would be the U.S.'s chosen instrument for breaking what the administration says is the Castro grovernment's monopoly on information reaching the Cuban people. But some industry representatives who testified expressed concern that establishment of the station would simply aggravate the problem—already serious—of Cuban-caused interference to U.S. stations. They called for negotiations with Cuba. But others talked of a kind of electronic warfare.

With some reservations—including those of Chairman Clement J. Zablocki (D-Wis.), who wondered whether the government couldn't do the same programing by way of the Voice of America's AM outlet on Marathon Key, Florida, or by private stations—the committee seems sure to approve the administration bill (H.R. 5427) authorizing the station and providing $10 million in State Department funds for first-year costs. Indeed, Representative Dante Fascell (D-Fla.), chairman of the subcommittee on International Operations, said in effect that approval was a foregone conclusion. "The policy decision [by the administration] has already been made," he said. "Asking Congress to put a brake on this is unrealistic."

Assistant Secretary of State for Inter-American Affairs Thomas O. Enders said the purpose of Radio Marti—named after a 19th century Cuban patriot—is "to give Cubans the means they now lack to know what kind of society has been imposed on them, to have a source of news and entertainment that is not manipulated by the state, to find out what is really happening in their country, why so many have to go off to foreign military duty not always to return, and what the state does with the wealth of the Cuban people."

But what would be the cost to American broadcasting? The administration is well aware of Cuban-caused interference. The National Association of Broadcasters two weeks ago released a study documenting the problem (BROADCASTING, March 8). It shows that, if Cuba implemented plans for the 187 stations—existing and proposed—in its inventory, the results for American broadcasting could be devastating. And Enders, in response to a question, said "there is no question" that the Cubans will use Radio Marti as an excuse for raising the level of interference.

But Enders made it clear he does not think Radio Marti would be the real cause. He noted that Cuban stations have been the source of interference to U.S. outlets since the 1960's and that, in 1979, "when the U.S. was trying hard to improve relations with Cuba," Havana announced plans for building a number of new transmitters, including two 500 kw stations. State Department officials say there is no indication, based on past dealings the interference problem would cease if Radio Marti did not go on the air.

The only remedial action Enders discussed in his statement involved defensive measures—"fast-track" regulatory procedures to enable affected stations to increase power or change frequencies when targeted (a tactic already being applied by the FCC, with the commission responding within 24 to 48 hours) or possible congressional action to compensate stations affected by "additional, aggressive interference should all else fail."

But in response to questions from Representative Andy Ireland (D-Fla.), who left no doubt he felt the U.S. should strike back at Cuban radio service, Enders said the U.S. might find it necessary to "retaliate" in response to Cuban radio "aggression." "We have the capability to interfere with Cuban radio on a broad scale," he said. "The Cuban government should know that if they attempt to cause interference or to target individual stations, two can play at that game."

Among the broadcasting industry representatives who testified, the toughest talk came from those closest to the firing line. Harold Frank, vice president and general manager of WINZ(AM) Miami and vice president of radio for the Florida Association of Broadcasters, and Herbert Levin, general manager of WQBA-AM-FM Miami and president of the South Florida Association of Broadcasters, both said representatives of affected agencies of government, including the FCC, State Department and Congress, should participate in a coordinated effort to find solutions to the interference problem. (A task force of FCC and State Department officials is already searching for solutions.) But Frank said FAB believes Castro needs "incentives" to come to the bargaining table and that, as a result, it has adopted a resolution calling on the government to build facilities to interfere with "and/or" jam Cuban radio signals. Levin noted that the south Florida radio broadcasters adopted a resolution supporting the concept of Radio Marti.

Representatives of national organizations, however, took a less heated view. The National Association of Broadcasters, the Clear Channel Broadcasting Service and the Association of Broadcast Engineering Standards called for negotiations with Cuba as a means of resolving the interference problem. And while Vincent Wasilewski, president of NAB, avoided mention of Radio Marti—he said the association had not taken a position on it—David E. Hilliard, speaking for CCBS, and Walter Johnson, the executive director ABES, expressed concern that Radio Marti would aggravate the problem.

Wasilewski said, "The solution lies with the federal government. Broadcasters implore Capitol Hill and the administration to work together with the Cuban government on this serious issue. While we fully recognize the political sensitivity of the Cuban interference problem, we urge you to carefully consider all negotiable options and their consequences which may affect each and every American."

Wasilewski said Cuba, which walked out of the western hemisphere conference on AM broadcasting in Rio de Janeiro last December and did not sign the Final Acts, "operates its facilities as an outlaw nation, ignoring international restrictions." And he said the implications for American radio stations throughout the country, not only in the Southeast, are "alarming." He cited the results of the NAB study on Cuban interference which shows that, if Cuba proceeds with its inventory of stations, over 200 AM stations in 32 states and the District of Columbia would suffer interference and reduced listening areas.

Hilliard, who is a partner in the law firm of Kirkland & Ellis and counsel for the CCBS, and Johnson, who served on the U.S. delegation to the Rio conference, did not stop with urging the committee to consider negotiations as a way out of the interference problem. They said the presumed value of Radio Marti should be weighed against the possible loss in domestic service that could result. Radio Marti, Hilliard said, "has the potential for making a bad situation worse."

Such arguments did not seem to make much of an impression on the committee. Fascell described Radio Marti as an "irrelevancy" in connection with the interference problem. And Ireland, in response to a plea from Johnson to be sensitive to the danger to the U.S. system of broadcasting, called him "a Neville Chamberlain."

However, some support for the possibility that Cuba herself might initiate bilateral talks came from Kalmann Schaefer, assistant to the FCC chairman on international communications and head of the delegation to Rio. He noted that the success of the International Telecommunication Union is based on the self-interest of the members. Such self-interest, he said, raises the possibility that "Cuba may yet initiate another attempt to develop a scheme of AM broadcast allocations under which both Cuba and the United States would—in the main, at least—shelter their AM services from mutual interference."

Short of such talks—or their failure if held—Hilliard had another suggestion. He said the U.S. should go beyond its present policy of permitting stations to increase power to recoup service lost to Cuban interference. He said it should permit such increases above the 50 kw limit now imposed on American broadcasting. He noted that the present policy discriminates against Class I clear channel stations which now operate with 50 kw and in some cases are suffering from Cuban interference.

Harriet A. (Sis) Kaplan, president of the National Radio Broadcasters Association, went a step further—to the delight of Fascell. She said it is "unfair that the Florida broadcasters should have to bear the brunt of the interference which has resulted from a political problem affecting the entire nation." She recommended that Congress suggest to the commission that it relax rules governing interference, "much of which interference is highly theoretical." She said the relaxation could be in the form of allowing affected stations to increase power—even above 50 kw—to overcome interference. She would grant such cases unless the interference to U.S. stations was "substantial." Such a plan, she said, would "result in a sharing of the burden of the Cuban problem" now experienced in Florida with stations outside of the state.

Fascell throughout the hearing had called for such an approach. And he chided the broadcasting industry for ignoring the problem while only Florida stations were affected. But he said the time has come for the industry "to stick together in this thing and do whatever is required to force a long-term agreement and help the industry people who are in difficulty."

But Wasilewski, in his testimony, cast doubt on the wisdom of an effort at sharing the burden, or even of attempting to counter Cuban interference by authorizing higher power for affected stations. Cuban interference patterns, he noted, change daily. "It takes nothing more than the turn of a screw in Cuba to give U.S. broadcasters a whole new set of problems." □

Radio Marti options

Presidential commission is examining ways to fight any Cuban jamming of new AM service

The Presidential Commission on Broadcasting to Cuba is concerned not only with problems of establishing Radio Marti, which is to be the administration's voice for telling Cuba news of that country (see page 134). The commission is also considering options available for dealing with Cuban jamming of the station.

According to minutes of a closed meeting on March 2, released last week, the commission discussed four options: 1. purchasing time on private stations in Florida, Louisiana and perhaps Texas to transmit evening programing from a variety of geographical sites and frequencies; 2. using high-powered stations in the Caribbean to broadcast several hours a day; 3. using shortwave transmissions, employing Voice of American transmitters at different sites in the U.S., and 4. using VOA's AM transmitter on Marathon Key, which signs off at 10 p.m.

There were several other developments last week related to what has become the U.S.'s broadcasting war with Cuba. Representative Dante Fascell (D-Fla.), chairman of the House Subcommittee on International Operations, held a hearing on the outcome of the western hemisphere conference on AM broadcasting, in Rio de Janeiro, last fall, and took the occasion to restate his view that Florida broadcasters should not be expected to bear the brunt of Cuban-caused interference, particularly if it increases after Radio Marti goes on the air. He feels they should be compensated by the government for costs involved in recouping service area lost to the interference. But in spite of his concern about the Florida broadcasters, Fascell complimented delegation members who testified on their work in Rio and the commission for its effort to help the Florida broadcasters. Delegation members showered praise on their chairman, Kalmann Schaefer, assistant to the FCC on international communications matters, for his leadership at the conference.

Meanwhile, it was evident that the U.S. has not resolved technical problems involved with Radio Marti. Wilson LaFollette, chief of the FCC's technical and international branch and a vice chairman of the delegation, said Radio Marti would cause interference to stations in Cuba and several other countries. That indicated the U.S. still plans to operate the station on 1040 khz. But observers noted that would be foolhardy in the face of Cuban plans to establish a 500 kw station on the frequency. They also noted that the U.S. officials have said repeatedly that Radio Marti would be engineered to avoid interference to anyone; the aim, he noted, is to put a listenable signal over Cuba. ☐

[FROM THE DAILY GATE CITY, MARCH 21, 1982]

Avoid Castro's jamming of WHO best

Last week the House Foreign Affairs Committee approved legislation to estabish Radio Marti — a no-nonsense news program to be beamed in Spanish to Cuba.

Similar in format to Radio Free Europe and Radio Liberty, which for years have broadcast Western news to nations behind the Iron Curtain, Radio Marti is intended to provide the Cuban people a democratic perspective to Castro's Marxist policies.

Castro is so apprehensive about the prospect of his people receiving unbiased information that he has threatened to jam Radio Marti broadcasts with a 500 kilowatt transmitter. A jamming undertaking of this magnitude — unprecedented in this hemisphere — carries potentially extraordinary implications for Iowans.

If current plans are implemented, Radio Marti will broadcast on 1040 KHz — precisely the same frequency as WHO of Des Moines. The 1040 KHz frequency was chosen because the signals emitted by Radio Marti from Florida to Cuba would cause relatively little interference for WHO and other private broadcasters in the United States. However, the government survey that led to this frequency selection did not take into account the effects of potential Cuban jamming to prevent Radio Marti from reaching its intended audience.

We now know that Castro has both the capacity and the stated desire to jam Radio Marti with a 500 kilowatt transmitter. If this occurs, Cuban jamming would restrict WHO's range to a 30-mile radius of Des Moines and jeopardize the functional viability of America's best known agricultural and talk show station. Instead of sending a clear signal from Minnesota to Louisiana and from Wyoming to Pennsylvania, WHO would barely reach Ames. Towns as close as Grinnell and Iowa City and Ottumwa would be deprived of a familiar and valuable source of news and entertainment.

"The Voice of the Middle West", WHO has been broadcasting into the homes of millions of Americans for almost 58 years. Operating as one of an exclusive grouping of "Clear Channel" 50,000-watt stations, WHO has developed a national reputation for the quality of its news and farm reports, weather information, Iowa athletics and public service for countless loyal and interested radio listeners. Its call-in programs provide a medium by which diverse Americans can interact and exchange viewpoints despite the many miles which separate them. Over the years it has received numerous journalistic awards and counts among its alumni Ronald "Dutch" Reagan as well as former Iowa Congressman H.R. Gross.

Given the probability that Castro will seek to jam Radio Marti, I have written the president suggesting alternative frequency approaches and amended the authorizing legislation to allow the administration to use a frequency currently reserved for Voice of America.

The potential for presidential embarrassment is extraordinary if current administration plans are not modified. President Reagan has always identified with and expressed great fondness for WHO. If WHO's frequency is used for Radio Marti, Castro will be given enormous incentive to jam its initial broadcasts and thus thwart an administration initiative to which the president has lent his personal prestige the minute it is undertaken.

Jamming is not a difficult art. It is just expensive. The fact that Castro is so insecure as to feel compelled to block "truth" from invading Cuba's shores is a reflection of a leader in trouble. The concern I have is that a commendable idea — the establishment of Radio Marti — does not cause the president such embarrassment as to increase the prospect of militant retaliations on our part against Cuba.

For months Secretary Haig has obliquely warned of the possibility that the Administration may "go to the source" and commence significant moves against Cuba. There are a few in inner circles in Washington that appear bent on confrontation with Cuba. One strategically placed Pentagon appointee went so far as to tell WHO representatives that jamming Radio Marti might be considered an "act of war."

Somewhere a more responsible perspective must be found. The jamming of Radio Marti is not equivalent to the sinking of the Maine. Should Radio Marti not have the effect our government might hope, care must be taken not to over-react. Interventionism has not served us well in the immediate past. It's not likely to in the immediate future. The Bay of Pigs mentality reflected in the leaked news that our CIA is considering staging guerrilla attacks on Nicaragua must not be compounded by unrealistic threats against Cuba. Now is the time to de-escalate rhetoric and seek responsible arms control discussions on a world-wide basis. Another confrontation with Russia over Cuba has all the "deja vu" earmarkings of man's pride jeopardizing man's fate.

Castro, intelligence sources tell us, has never been lower in Cuban public esteem. Cuba's economy is in disarray and Cuban mothers, not unlike their American counterparts, have grave reservations about sending their sons to fight civil wars on foreign soil. Dictatorships have a habit of collapsing from the weight of incompetence and ideological ridigity. Great power intervention in the affairs of small states all too frequently makes martyrs out of villains. Generally it ensconces rather than curtails the authority of petty potentates. The greatest threat to Castro is to ignore him. Restraint is the order of day.

[FROM THE WASHINGTON POST, APRIL 1, 1982]

Cuba May Jam Reagan's Old Station

By Caroline E. Mayer

Washington Post Staff Writer

President Reagan's plan to launch a new Spanish-speaking radio station in Florida to broadcast "the truth" about Castro to all Cubans may hurt the very radio station on which Reagan launched his public career.

According to officials of WHO radio in Iowa, the administration's plans to set up Radio Marti—named after Jose Marti, the father of Cuban independence—could trigger reprisals by Cuba that might wipe out almost all nighttime service of the Des Moines, Iowa, AM-radio station on which "Dutch Reagan" was a popular sportscaster during the 1930s.

If the United States goes ahead and sets up Radio Marti on channel 1040, the same radio frequency on which WHO operates, many U.S. officials predict Castro will retaliate by setting up a far more powerful station on the same channel to wipe out Radio Marti's signal.

"We are deeply concerned that Cuba's announced plans to jam Radio Marti with up to 500 kilowatts of power [10 times the U.S. government's limit for American stations] will destroy WHO's nighttime service, including its vital farm market reports," says Robert Engelhardt, vice president of Palmer Communications Inc., the company that owns WHO.

Radio signals travel much farther during dark than they do during daylight hours. As a result, a powerful Cuban jamming of Radio Marti could affect WHO's broadcasting signal even though the transmitters for the two stations would be thousands of miles away.

Thus, says Engelhardt, if Cuba were to try to block out Radio Marti, "such jamming will shrink WHO's coverage from a radius of 800 miles to a radius of 45 miles, from 1,700,000 square miles to 5,900 square miles—a 99.65 percent decrease."

Radio engineers say that WHO would be the only station affected by the jamming.

As a result, Engelhardt and other company officials have been busy trying to persuade the administration and Congress to use another channel for Radio Marti. Just two days ago, they met with the Presidential Commission on Broadcasting to Cuba to try to persuade them to select another AM channel or another method of broadcasting—such as FM or short-wave radio—to send "the truth" to Cuba. The commission was appointed by President Reagan to recommend a plan for establishing Radio Marti.

Additionally, notes one of WHO's Washington's lawyers, Kenneth D. Salomon, "we've tried to see that the fact that WHO will be affected by Radio Marti was brought to the president's attention. So far, we have no way of knowing if it has."

Reagan announced his intention to set up Radio Marti last September at the height of rhetorical hostility between the two countries. Accusing Castro of lying to its people for 20 years, Reagan said Radio Marti would broadcast "accurate information about Cuba" to the Cuban people.

With a $10 million authorization from Congress—which has yet to be approved—Radio Marti would operate much like Radio Liberty and Radio Free Europe, which have broadcast information to Russia and its Eastern European satellites for more than 30 years.

Initially, several U.S. diplomats in Havana opposed the idea of Radio Marti, saying it not only would generate more Cuban immigration to the U.S. but also could lead to a series of unwanted reprisals. However, commission members say that initial opposition has died down and the support for Radio Marti is "gung-ho" from administration officials.

"It is a lot easier for the U.S. to take out our feelings against Cuba with a so-called war of words rather than a war of bullets," says George Jacobs, an engineer on the presidential commission, in explaining why the program is drawing such strong support from the State Department and Department of Defense.

Commission officials say channel 1040 is the best frequency with which to carry out this verbal battle. It is the one radio frequency that won't interfere significantly with other stations in the area, commission officials say. Additionally, they claim that short-wave radio broadcasts would not be effective because short-wave receivers are scarce in Cuba. FM-radio would not broadcast a signal in as wide an area as AM, commission officials add.

Officials are not convinced that Cuba will send out powerful signals to block Radio Marti. For one thing, they note, despite all expectations, Castro has not jammed Radio Marathon, the Voice of America station that goes to Central American countries.

Additionally, they contend, Castro could block Radio Marti's signals from reaching Cuba using a low-powered transmitter that would cost far less than a 500 kw unit. The lower-powered signal would not interfere with WHO's broadcasting.

And even if Cuba did employ a 500 kw transmitter, a Defense Department official said that the U.S. might then try other frequencies for Radio Marti. "It's a little bit like a game of chicken," says the official.

Even so, WHO officials are disturbed by the "game of chicken" metaphor and now express concern that their station will end up being just a pawn in a war of words.

[FROM THE QUAD-CITY TIMES, APRIL 1, 1982]

Cuba radio fray has Leach tuned in

By Terry Hughes
of the Times

WASHINGTON — Calling for moderation is nothing new to Iowa Rep. James Leach, and this time he's in the middle of a tussle involving Fidel Castro, the U.S. State Department and Des Moines radio station WHO.

The State Department has proposed — and the House Foreign Affairs Committee has approved — creating Radio Marti, a Radio Free Europe-type effort aimed at Cuba.

The frequency for the station — 1040 KHz — is the same as that assigned to WHO. Normally that would not create a problem because the broadcast is aimed at Cuba, but Castro has said he will jam the frequency with a 500-kilowatt transmitter sending signals back at the United States.

And if that happens, WHO will reach only a 30-mile radius, instead of its present range from Minnesota to Louisiana and from Wyoming to Pennsylvania.

The simple answer, Leach says, would be to pick another frequency. But that apparently is not about to happen.

Secretary of State Alexander Haig has warned that the United States might move against Cuba if Radio Marti is jammed.

"There are a few in inner circles in Washington that appear bent on confrontation with Cuba," Leach said. "One strategically placed Pentagon appointee went so far as to tell WHO representatives that jamming Radio Marti might be considered an 'act of war.'"

"The principle of Radio Marti is important," Leach said Wednesday. "Frankly, I share some of that perspective.

"I just am convinced that they chose WHO's frequency without giving any consideration to the effects of jamming."

Leach has written to President Reagan — who in his early years was a sportscaster for WHO — asking that alternate frequencies be considered.

But he says he sees only modest hope the administration will change its mind. So he is trying to get Congressional support for changing the signal to either another United States frequency, one in Mexico, or using several different frequencies.

The brewing confrontation is taking on tones of past clashes with the Soviet Union over Cuba, Leach said, another case of "man's pride jeopardizing man's fate.

[FROM THE JOURNAL-TRIBUNE, APRIL 1, 1982]

Restraint Is The Order

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By Congressman Jim Leach

Last week the House foreign affairs committee approved legislation to establish Radio Marti, a no-nonsense news program to be beamed in Spanish to Cuba.

Similar in format to Radio Free Europe and Radio Liberty, which for years have broadcast western news to nations behind the Iron Curtain, Radio Marti is intended to provide the Cuban people a democratic perspective to Castro's Marxist policies.

Castro is so apprehensive about the prospect of his people receiving unbiased information that he has threatened to jam Radio Marti broadcasts with a 500 kilowatt transmitter. A jamming undertaking of this magnitude, unprecedented in this hemisphere, carries potentially extraordinary implications for Iowans.

If current plans are implemented, Radio Marti will broadcast on 1040 KHz, precisely the same frequency as WHO of Des Moines. The 1040 KHz frequency was chosen because the signals emitted by Radio Marti from Florida to Cuba would cause relatively little interference for WHO and other private broadcasters in the United States. However, the government survey that led to this frequency selection did not take into account the effects of potential Cuban jamming to prevent Radio Marti from reaching its intended audience.

We now know that Castro has both the capacity and the stated desire to jam Radio Marti with a 500 kilowatt transmitter. If this occurs, Cuban jamming would restrict WHO's range to a 30-mile radius of Des Moines and jeopardize the functional viability of America's best known agricultural and talk show station. Instead of sending a clear signal from Minnesota to Louisiana and from Wyoming to Pennsylvania, WHO would barely reach Ames. Towns as close as Grinnell and Iowa City and Ottumwa would be deprived of a familiar and valuable source of news and entertainment.

"The Voice of the Middle West," WHO has been broadcasting into the homes of millions of Americans for almost 58 years. Operating as one of an exclusive grouping for "Clear Channel" 50,000-watt stations, WHO has developed a national reputation for the quality of its news and farm reports, weather information, Iowa athletics and public service. Its call-in programs provide a medium by which diverse Americans can interact and exchange viewpoints despite the many miles which separate them. Over the years it has received numerous journalistic awards and counts among its alumni Ronald "Dutch" Reagan as well as former Congressman H.R. Gross.

Given the probability that Castro will seek to jam Radio Marti, I have written the President suggesting alternative frequency approaches and amended the authorizing legislation to allow the administration to use a frequency currently reserved for Voice of America.

The potential for Presidential embarrassment is extraordinary if current administration plans are not modified. President Reagan has always identified with and expressed great fondness for WHO. If WHO's frequency is used for Radio Marti, Castro will be given enormous incentive to jam its initial broadcasts and thus thwart an administration initiative to which the President has lent his personal prestige the minute it is undertaken.

Jamming is not a difficult art. It is just expensive. The fact that Castro is so insecure as to feel compelled to block "truth" from invading Cuba's shores is a reflection of a leader in trouble. The concern I have is that a commendable idea, the establishment of Radio Marti, does not cause the President such embarrassment as to increase the prospect of militant retaliations on our part against Cuba.

For months Secretary Haig has obliquely warned of the possibility that the administration may "go to the source" and commence significant moves against Cuba. There are a few in inner circles in Washington that appear bent on confrontation with Cuba. One strategically placed Pentagon appointee went so far as to tell WHO representatives that jamming Radio Marti might be considered an "act of war."

Somewhere a more responsible perspective must be found. The jamming of Radio Marti is not equivalent to the sinking of the Maine. Should Radio Marti not have the effect our government might hope, care must be taken not to over-react. Interventionism has not served us well in the immediate past. It's not likely to in the immediate future. The Bay of Pigs mentality reflected in the leaked news that our CIA is considering staging guerrilla attacks on Nicaragua must not be compounded by unrealistic threats against Cuba. Now is the time to de-escalate rhetoric and seek responsible arms control discussions on a world-wide basis. Another confrontation with Russia over Cuba has all the "deja vu" earmarkings of man's pride jeopardizing man's fate.

Castro, intelligence sources tell us, has never been lower in Cuban public esteem. Cuba's economy is in disarray and Cuban mothers, not unlike their American counterparts, have grave reservations about sending their sons to fight civil wars on foreign soil. Dictatorships have a habit of collapsing from the weight of incompetence and ideological rigidity. Great power intervention in the affairs of small states all too frequently makes martyrs out of villains. Generally it ensconces rather than curtails the authority of petty potentates. The greatest threat to Castro is to ignore him. Restraint is the order of day.

[FROM THE DES MOINES SUNDAY REGISTER, APRIL 4, 1982]

Officials of Des Moines radio station WHO were in Washington last week, telling people that their former employee, Ronald "Dutch" Reagan, has gone a little bit overboard in asking private enterprise to sacrifice for the good of the country.

They are troubled by Reagan's plan to spend $10 million to start a radio station in southern Florida to broadcast U.S. [illegible]ews to [illegible]. Already Fidel Castro has vowed to jam the government station's signal. And therein lies the problem, because the government station would share WHO's frequency, and the jamming threatens to decrease WHO's nighttime range — now advertised as coast-to-coast and border to border, and then some — by 99.85 per cent.

"Private enterprise has been asked to do much by this administration, but it seems to us that if there is a risk that a station's service will be destroyed by Cuban jamming, it should be the government's station ... that should be initially placed on the front lines rather than private broadcasters' stations," WHO's Robert Engelhardt told the Presidential Commission on Broadcasting to Cuba.

[FROM BROADCASTING, APRIL 5, 1982]

More worries over Marti

Presidential commission hears interference concerns from WHO, KSL; alternative to 1040 khz station is urged

The private concerns of American broadcasters are bumping up against national policy concerns. So far, the national policy concerns are not budging.

The point of discussion is Radio Marti, the 50 kw station the Reagan administration plans to operate from Saddlebunch, Fla., in the Florida Keys. The frequency that has been selected is 1040 khz, and that prompted attendance at a Presidential Commission on Broadcasting to Cuba meeting, at the State Department last week, by an officer of WHO(AM) Des Moines, Iowa, which operates on that frequency.

Robert G. Englehardt, vice president of Palmer Communications Inc., urged the commission to consider an approach other than a station on 1040 khz, perhaps a combination of AM, FM, TV and shortwave outlets. He is afraid the jamming or interference he says Cuba has threatened to disrupt Radio Marti would seriously affect WHO.

But it wasn't only prospective concerns the commission heard. A representative of KSL(AM) Salt Lake City, Glen L. Wilkinson, its Washington counsel, said the station, which operates on 1160 khz, is already suffering badly from Cuban interference. Indeed, Bonneville International Inc., the licensee, contends the interference is from a 500 kw station.

The complaint contains the first suggestion that Cuba has begun to make good on its stated intention to operate two 500 kw stations—one on 1040 khz and one on 1160 khz. However, there was no confirmation from any other source regarding the Bonneville claim.

Neither Engelhardt nor Wilkinson—both spoke at a public meeting—appeared to have jarred the commission from its present thinking.

Engelhardt said Cuba's plans to install a 500 kw station on 1040—in what he said would be retaliation for plans for Radio Marti—would "destroy WHO's nighttime service," including the farm market reports he says are a vital part of the station's service in the Midwest. The "jamming," he said, "will shrink WHO's coverage from a radius of 800 miles to a radius of 45 miles, from 1,700,000 square miles to 5,900 square miles—a 99.65% decrease."

Apart from the danger to WHO, Engelhardt said using a single AM station to broadcast to Cuba is not a rational method. It could be easily jammed. As currently planned, he said, the project will fail and the government's $10 million investment—the first year costs—"will be totally wasted."

He offered other options. He noted that the House Government Operations Committee had suggested broadcasting on multiple frequencies as a means of overcoming jamming. Thus, he said, "the better way to get a message to Cuba is by simultaneously utilizing a combination of AM, FM, TV and shortwave signals."

He said in that combination the AM station could be the Voice of America's 50 kw Radio Marathon, in the Florida Keys, which is now heard in Cuba. Indeed, if the government decides to use only one AM station, he said, it should be Radio Marathon. He said the station—which he called "underutilized"—could be "taken over" or the government could lease time on it.

"If there is a risk that a station's service will be destroyed by Cuban jamming," Engelhardt said, "it should be the government's station, Radio Marathon, that should initially be placed in jeopardy on the front lines, rather than private broadcasters' stations. It is grossly unfair to place the burden on WHO when the government has a facility that is ready and available for Radio Marti."

However, Radio Marathon is not alone on the 1180 khz frequency on which it operates. It shares it with WHAM(AM) Rochester, N.Y., whose licensee, Rust Communications Group, has been trying to get Radio Marathon moved for the past 20 years. Engelhardt said WHAM would not suffer as much damage as WHO if Cuba attempted to interfere with a station on 1180 khz, since WHAM offers "an urban service" rather than one for an audience spread over considerable distances.

Commission members did not express much sympathy. William B. Bayer, political editor and news commentator for WINZ(AM) Miami, told Engelhardt his presentation amounted to "guesswork, presumption." He said, "You're jumping to conclusions, before you know you're going to be hurt. My station in south Florida was one of the first to be interfered with. I don't think you can count on anything."

The commission chairman, F. Clifton White, said later that the commission has not fixed on 1040 khz—although a proposal for a station on that frequency at Saddlebunch, Fla., is in the U.S. inventory of stations that was submitted to the western hemisphere conference on AM broadcasting. "A number of other options," including those suggested by Engelhardt, are under consideration, he said.

Wilkinson, in his presentation, said the interference KSL was suffering was being caused by a Cuban station of "unknown power." He said the interference had reduced the station's protected contour of a 750-mile radius to about "50 or 60 miles."

But later, he said a study by Bonneville's vice president for engineering, William Lovelace, indicated the Cuban station was operating with 500 kw. Lovelace, in an interview, said the measurements he made indicated that was the power involved.

However, Lovelace acknowledged that no one agrees with his findings. "But that's what we're measuring," he said. Among those who disagree is Cohen. He acknowledged that KSL is suffering interference—but from a station whose power he calculates at between 120 kw and 150 kw. FCC engineers said their studies did not indicate a Cuban station with more than 100 kw on 1160 khz.

Regardless of the precise power of the interfering station, it was hurting, Wilkinson said. "We're not complaining," Wilkinson added. "We know this is a problem with wide ramifications." But he hoped negotiations could be restored with Cuba leading to a solution. "Is there any way the government can get back into communications with Cuba?" he asked. He noted the station is receiving letters from listeners complaining about the interference.

The reaction he received was not particularly warm, either. Richard B. Stone, the former senator from Florida now practicing law in Washington, said the problem of Cuban interference is an old one; he said stations have complained about it for 19 years. Jorge L. Mas, a Miami building contractor, said of the Cuban prime minister, "It's impossible to sit down and reach an agreement with Castro." And White said the issues raised by Wilkinson "don't come within the jurisdiction of the commission." However, he said, "We're aware of the problems. It's a corollary benefit of the commission being created. We have raised the level of concern."

Everybody on 1040

Administration officials dispute charge they have put WHO(AM) Des Moines, Iowa, in jeopardy with their plans to use its frequency—1040 khz—for Radio Marti (see page 147). Cubans late in November—several weeks after those plans were reported (BROADCASTING, Nov. 2, 1981)—announced intention to shift 500 kw station to 1040 khz. And WHO officials say interference from that monster station would wipe out WHO's nighttime service. But State Department officials, maintaining "retaliation" is not involved, have shown WHO representatives what they say are minutes of Aug. 24 meeting in which Cubans said they were planning to use 1040 khz for 500 kw station.

But why, then, would U.S. pick that frequency for 50 kw station to broadcast to Cuba? Its signal would be overwhelmed by Cuban operation putting out 500 kw. Defense Department official involved in decision said administration is not convinced Cuba will make good on announced intention. But if 500 kw station does go on air, there are various technical, diplomatic "and other kinds of actions" that could be taken. Even military action "is not ruled out"—though neither is it "ruled in," he said. Meanwhile, general question of Cuban-caused radio interference has attracted attention of House Commerce Committee. Chairman John Dingell (D-Mich.) has asked House Speaker to refer Radio Marti bill (H.R. 5427), approved by House Foreign Affairs Committee two weeks ago, to Telecommunications Subcommittee.

More transmitters for Caribbean. Radio Marti is not only new radio voice administration wants to add in Caribbean. Charles Z. Wick, director of International Communication Agency, has told Congress that ICA's Voice of America wants to add three 50 kw AM transmitters in region now attracting so much U.S. attention. Transmitters—two on Grand Cayman and one on Grand Turk, according to plans—would rebroadcast Spanish- and English-language programs originating in Washington. Total cost of adding three more Caribbean transmitters would be $11.2 million.

[HISTORY OF RADIO STATION WHO]

RADIO STATION WHO

"The Voice of the Middlewest"
Des Moines, Iowa

On Saturday, April 10, 1982, Radio Station WHO, Des Moines, will observe 58 years of service to millions of radio families in Mid-America. On the occasion of its receipt of the broadcast industry's coveted "Mike Award" February 7, 1966, the Governor of Iowa, The Honorable Harold E. Hughes, described its history in the following manner:

> "Steadily, reliably, and constantly, WHO has grown ... ever pursuing a course of service."

From its first broadcast nearly 58 years ago, WHO has proudly met its obligations to the public with a programming philosophy of service through quality, integrity and responsibility.

Reflecting the pioneer spirt of the Palmer family, which acquired the young station from The Bankers Life Company of Des Moines in 1930 — and despite a Depression-born skepticism about the future of radio broadcasting — WHO recognized early the need of a well-rounded radio service to its listeners.

In 1933, WHO was granted 50,000 watts to serve a vast segment of the Midwest, and in 1941 became a 1-A Clear Channel station to provide interference free service to distant areas.

Accepting the challenge of serving a wide area of audience, WHO took its first step in becoming a distinguished leader in broadcast journalism when it established a large, professionally staffed and fully equipped news department under the leadership of H. R. Gross and Jack Shelley.

One of the first truly non-network radio news operations in the nation, the WHO News Bureau (as it was then known) quickly achieved a reputation for responsible reporting and balanced coverage that still is demonstrated daily.

There is no greater measurement of the respect held for the WHO radio news department than that expressed by its peers — the National Association of Radio-TV News Directors who four times since the mid-Fifties named it the "Best Radio News Operation in the United States."

News stories normally left to the networks to cover became standard assignments for WHO's News Bureau staffers. During World War II, two full-time members of the News Bureau were accredited as war correspondents to both the European and Pacific theaters. WHO's listeners heard interviews with Iowans fighting in battle areas and first-hand accounts by its reporters of the "Battle of the Bulge," the signing of the German Army's surrender and the Japanese surrender aboard the U.S.S. Missouri. Later, the war in Vietnam was covered by WHO Radio News Director Bob Wilbanks.

The WHO News Bureau also served as the catalyst for many public service projects: During World War II, it sold $6,153,400 worth of Treasury Bonds to 25,000 investors in 46 states. Following the war, 17,000 listeners answered News Bureau appeals and dispatched 260,000 parcels (1,430 tons) of clothing to destitute families in Europe. The Greek government later named city streets for "WHO", "Des Moines" and "Iowa."

Later years found the radio news department turning its attention to other public needs, such as during recent spring floods in South Dakota when the department acted as a clearing house for information about Iowans trapped in the area and provided Red Cross chapters throughout the midlands with assistance for emergency appeals and messages.

Today, WHO Newsradio has a staff of 17, including two WHO Newsradio Washington reporters, plus 25 midwest correspondents. This is one of the largest 24-hour radio news staffs in mid-America and is responsible for a heavy schedule of newscasts that total 45 hours weekly. The staff is supported by extensive technical equipment and news-gathering services.

In keeping with its long tradition of nighttime news service to a wide geographical area, WHO Newsradio's 10:00-10:30 p.m. newscast draws on an 11-state regional news printer service, as well as its own staff and regional correspondents. A typical 10 p.m. newscast can include top news stories from Nebraska, Missouri, Kansas, Colorado, the Dakotas, Minnesota, Wisconsin, Illinois, Indiana and other mid-America states, plus multi-state weather forecasts as a service to farmers throughout rural regions of the country.

And, each year during the area's severe winter weeks, WHO Newsradio broadcasts as many as 400 to 500 school and business closings — many from surrounding states — during each day's early morning and evening newscasts. For many of the rural and small community schools, WHO Newsradio is the only "official" source of such information.

WHO's program history has been closely linked to the economic history of its primary and secondary service areas. Farming and agriculture-related business by far has been the most important industry in Iowa, and it has had a dominating significance in the surrounding states of the Midwest, South and West.

WHO broadcast its first farm program in 1934 and in August, 1936, established the radio industry's first broadcast department specializing in agricultural journalism.

In establishing the nation's first radio farm department, WHO adopted a schedule of farm information, news, weather, markets and other services of productive interest to farm families and businesses and industry allied to agriculture.

The WHO Farm Service Department, in its continuing endeavor to be of complete service to the agriculture industry, originated "National Soil Conservation Field Days," an annual event now rotated throughout the midwest. Described by Dr. Hugh Bennett, former Chief of the U.S. Soil Conservation Service, as "one of the most important things that has taken place on American farm lands...", one of WHO's Field Day programs was attended by more than 250,000 people.

WHO has also sponsored or co-sponsored a number of other special agricultural events, including the Iowa School Fire Prevention campaign, WHO Farm Safety contests, farm family days, tractor rodeos, and master swine producers awards functions.

This tradition of service to the farmer continues unmatched in today's radio programming, with more than 150 separate farm programs broadcast weekly under the direction of WHO's four-member Farm Service Department.

Special attention is given by WHO's Farm Service Department to marketing and weather information, some of which is not available from most other radio stations in mid-America. For example, livestock and commodity reports broadcast early each morning and again during the 10 p.m. news cover not only Iowa market points, county elevator reports, The Chicago Board of Trade and The Commodity Mercantile Exchange, but also terminals at the following locations:

Omaha
Sioux City
Peoria
Joliet
St. Paul
St. Louis
West Fargo
Kansas City
Wichita
St. Joseph
Indianapolis
Louisville
Sioux Falls

Daily wide area state weather forecasts, vital to farmers and agricultural-related businesses, are presented at 5:45 a.m. and within the 10 p.m. news for the following states: Wyoming, Colorado, Oklahoma, Nebraska, Kansas, Missouri, South Dakota, Minnesota, Illinois and Wisconsin.

Weather information is of vital concern to nearly everyone, and in an effort to determine exact needs of its listeners, WHO recently requested comments from listeners to the 5:45 a.m. weather. More than 200 letters and cards were received, with about one-third from states other than Iowa.

Some of the comments included:

"I listen to WHO's early morning weather every morning as I go to work..."

Frank Ketson, R. 8, Kingsport, Tenn.

-0-

"...Keep the weather news on..."

R. A. Tyler, R. 2, Morristown, Tenn.

-0-

"...Keep the weather report coming..."

Al Heard, Saltsburg, PA

-0-

"...We really enjoy the weather news..."

Earl E. Schroeder, Columbus, Georgia

-0-

"...Hearing your early weather news, we can usually predict our own a day or two ahead of time..."

Ruth Braucht, Chestertown, Maryland

-0-

"...We hear you every morning on the farm program..."

Robert M. Hubbard, Montgomery, Alabama

-0-

"Your weather reports are valued highly since they indicate what weather we can expect here the following day..."

Paul A. Doyle, Pittston, PA

-0-

"...The weather forecasts are valuable to me."

Edward Daily, RR #3, Milan, MO

-0-

"Keep those weather forecasts coming. Yours is the only clear, concise program I can find for the information I need..."

N. Henkins, RR, Newark, MO

-0-

"We listen more to that (5:45 a.m.) forecast (program) than any other in the morning, because our weather comes from most of those states..."

E. W. Hanson, 2614 Shelby Rd., La Crosse, WI

"WHO is the only station giving the weather for Missouri and all surrounding states and that is really helpful when traveling..."

Carrol Surtzer, Bucklin, MO

-0-

"...I like to hear the weather report for the crops, plus I get an idea on what we might expect in the way of weather coming this way..."

Maurice Pahr, Bridgeport Twp., Saginaw, MI

-0-

"...It is the best weather information we can get for our area."

R. E. Bilderback, Trucking & Cornshelling,
Bowen, IL

-0-

The response to WHO's long dedication to serving the agricultural industry is best evidenced by farmers' listening measurements. The 1980 Doane Farm Media Measurement Study for Iowa showed that 50 percent of Iowa's farmers indicated they depended upon WHO farm programs and farm broadcasters for markets, farm news, weather and other information — almost equal to all of the other commercial Iowa broadcasters and stations combined!

Additionally, the Arbitron Iowa Farm Radio Study of March/April 1981 gave WHO 75.2 percent share of the farm listenership in the ADI area vs. the number two station's 22.9 percent.

The significant contributions by the WHO Farm Service Department and members of its staff in the interests of farmers and agricultural-related audiences have been recognized through the years with hundreds of national, regional, and state awards and citations — including the famed duPont Award for "Outstanding Public Service." WHO three times has been the recipient of the prestigious "Oscar in Agriculture" for specific farm programs.

A recent and partial list of awards and recognition includes:

NAMA/Iowa Dept. of Agriculture "Friend of Agriculture" award "for providing needed information to farmers..."

Iowa Veterinary Medical Association award "for broadcasting needed information to livestock producers..."

Iowa State University "Friends of Extension" award "for promoting farm safety..."

American Soybean Association "Broadcast Media Award" for "outstanding and long-term coverage of soybean related news to midwest farmers..."

Iowa Cattlemens Association "for coverage of cattlemens activities throughout Iowa..."

Iowa Beef Improvement Association "for outstanding service..."

Soil Conservation Society of America, Iowa chapter, "Friends of Conservation" award for "consistent coverage of soil conservation meetings and events..."

Iowa Wildlife Federation "Conservation Communicator of the Year" award...

Iowa Association of Future Farmers of America "Distinguished Service" award for communicating "rural America's story..."

Peace Corps citation for "recognition in the Peace Corps/Agriculture recruiting effort..."

Insurance Association "Loss Prevention Award" for coordinating state's fire prevention programs in rural schools.

Mid-America Dairymen award "for long and devoted service to dairymen and farmers..."

National Safety Council award "for exceptional service to farm safety..."

Agriculture Council of America citation "for support in achieving the goal of a better informed public..."

Geigy-National Association of Farm Broadcasters award "for excellence in farm broadcasting..."

4-H citation "for outstanding service and effective coverage of local, state and national 4-H events..."

And, a letter of special commendation from the U. S. Department of Agriculture's Stabilization and Conservation Service for WHO Farmradio's "timely interviews concerning the 1978 disaster and set-aside program in aiding us to disseminate program details rapidly to the farmers...your radio broadcasts were one of the most important factors for an excellent sign-up in the set-aside program in Iowa..."

Today, WHO continues to afford this important farm broadcast service to the hundreds of thousands of farm and rural families in Iowa and surrounding states, with its observance of the following daily farm broadcast schedule, Monday through Saturday:

FARM SERVICE BROADCAST SCHEDULE

Monday through Saturday

5:30-5:40 AM - General News

5:40-5:45 AM - Farm News

5:45-5:50 AM - 11-State Weather Forecasts (Iowa, Nebraska, Illinois, South Dakota, Minnesota, Wisconsin, Missouri, Kansas, Oklahoma, Colorado, and Wyoming)

5:50-5:55 AM - Farm News

5:55-6:00 AM - Previous Day's Closing Farm Market Quotations

6:00-6:05 AM - Farm News, 11-State Weather Forecasts

6:05-6:15 AM - Anticipated Receipts at Interior Iowa, Omaha, Sioux City, Peoria, Joliet, St. Paul, St. Louis, and Chicago Livestock Terminals

6:15-6:20 AM - Calendar of Day's Principal Agricultural Events

6:20-6:30 AM - Summary, Farm News, 11-State Weather Forecasts, Previous Day's Closing Farm Market Quotations, Anticipated Receipts at Principal Livestock Terminals, Farm Calendar

6:40-6:45 AM - Anticipated Receipts at Interior Iowa, Omaha, Sioux City, Peoria, Joliet, St. Paul, St. Louis, and Chicago Livestock Terminals

9:30-9:35 AM - Opening Farm Markets

10:30-10:35 AM- Opening Farm Markets

11:30-11:40 AM- Receipts at Interior Iowa, Omaha, Sioux City, Peoria, Joliet, St. Paul, St. Louis, and Chicago Livestock Terminals

11:55A-12 Noon - Farm News

12 N-12:15 PM - Farm News, Farm Markets, Livestock Terminal Receipts, 11-State Weather Forecasts

12:15-12:30 PM- Farm News and Commentary

12:45-1:00 PM - Farm Commentary

1:00-1:05 PM - Closing Farm Markets, Livestock Terminal Receipts

1:30-1:35 PM - Closing Farm Markets, Livestock Terminal Receipts

2:30-2:35 PM - Closing Farm Markets, Livestock Terminal Receipts

3:30-3:35 PM - Clsoing Farm Markets, Livestock Terminal Receipts

4:45-5:00 PM - Closing Farm Markets, Livestock Terminal Receipts

5:55-6:00 PM - Closing Farm Markets, Livestock Terminal Receipts

6:25-6:30 PM - Farm Markets Final, including Closing Farm Market Quotations, Receipts at Interior Iowa, Omaha, Sioux City, Peoria, Joliet, St. Paul, St. Louis, and Chicago Livestock Terminals, and 11-State Weather Forecasts

10:00-10:15 PM- Within Body of General Newscast, 5-Minute Insert Covering Day's Closing Farm Market Quotations, Receipts at Interior Iowa, Omaha, Sioux City, Peoria, Joliet, St. Paul, St. Louis, and Chicago Livestock Terminals, and 11-State Weather Forecasts

WHO has always had a deep awareness of the public interest and involvement in its programming and in 1965 introduced to the community the first of a now greatly-expanded audience-participation telephone talk show concept. These eight separate programs, each with its own hosts, are now scheduled seven days a week for a total of 12½ hours daily and 75½ hours weekly.

Utilizing nine local and toll-free WATS telephone lines, interfaced with a specially designed computer control system to insure free and easy participation in the programs locally and throughout the nation, the talk shows afford air time for all shades of opinion and discussion. They are truly "public access" programs.

Total number of calls attempted and answered for each of WHO's talk shows are recorded on an automatic "call-counter" device constructed by Northwestern Bell and tied into WHO Talkradio's in-studio computer system, which also records origin of calls, whether caller is male or female, and subject matter to be discussed.

WHO's analyst during its play-by-play coverage of Iowa football; "Call Hayden Fry," the Iowa football coach; and "Call Lute Olson," the Iowa basketball coach. Each of these shows is once per week.

The widespread interest in University of Iowa athletics through WHO broadcasts can be seen in the number of states represented by callers to the seasonal special talk shows: "Call Evy" — 12 states; "Call Hayden Fry" — 15 states; "Call Lute Olson" — 13 states.

From its earliest broadcast years WHO has recognized the sharp interest its audience has in sports programming. The station's first college football play-by-play origination occurred in 1926 (Drake vs. Notre Dame) and it has maintained a strong posture in coverage of collegiate, high school and professional sports.

The 1982 University of Iowa football schedule marked WHO's 50th consecutive season of play-by-play coverage of the Hawkeyes, beginning with Ronald Reagan's first broadcast as WHO Sports Director.

WHO's coverage of Iowa football was best described in November, 1981, by a Minneapolis newspaper sports columnist in his characterization of Hawkeye football fans:

> "They (Iowa fans) may wander the desert forever looking for the promised land of Pasadena, but you'll never hear them whimper. And as they go they will listen to information about the Hawkeyes from WHO Radio in Des Moines...WHO covers Iowa football like the networks cover political conventions. Thoroughly."

Iowa's fans, incidentally, did make it across the desert to Pasadena when the Hawkeyes won co-championship of the Big Ten Conference and played in the 1982 New Year's Day Rose Bowl game. Named as the "official" originating station for the play-by-play by the University of Iowa was WHO. Said C.W. Elliott, Director of Athletics, in announcing his selection of WHO as the university's "official" station:

> "The WHO signal reaches more Iowa fans than any other station."

The station has been able to serve Iowa fans across the nation with its daytime play-by-play coverage of football and basketball by the use of a unique programming concept — nighttime rebroadcasts of those games.

Not all of WHO's programming centers around news blocks, farm news, talk shows or sports events. But all of it does carry the beat of information — even its "Country Music/USA", 1:00-5:30 a.m. nightly, which provides newscasts every half hour from the WHO 24-hour news staff, as well as a service particularly valuable to truckers and travelers: Continuous updates on weather forecasts from the direct wires of the National Weather Service and road conditions throughout the nation, including major travel advisories, storm warnings, and highway patrol road reports in any state whenever conditions warrant.

In addition to the regular sources of information about roads and weather conditions throughout the country, WHO's all-night music is supported by a network of AAA Motor Club contacts along the major interstate routes who report to the station with last minute road and weather information.

Some WHO programming is designed to provide responsive service to a very specialized group of listeners. Each Sunday evening WHO broadcasts a locally-produced half-hour program — "The Voice of Southest Asians" — entirely in Vietnamese and Thaidam-Lao languages and featuring music, news and public service information for the more than 4,000 natives of Southeast Asia now living in Iowa. WHO was the first radio station in the nation to broadcast a regularly scheduled program for Southeast Asians.

Occasionally, WHO's service to its public brings surprising — and dramatic — responses. On Wednesday, December 30, an unemployed Urbandale, Iowa, resident wrote the Des Moines Register he would commit suicide by midnight, December 31, so that his family would be eligible for welfare benefits. The letter, printed in that day's Register, received widespread attention and initiated a search by authorities for the writer.

The following day the man turned himself in to authorities and, according to the Register's story, he told authorities a listener's telephone call to WHO's "Clear Channel Conversation" Wednesday night, in which she pleaded to the writer to reconsider his threat, "persuaded him to change his mind -- and to seek help."

The following Sunday — January 3 —an Ankeny, Iowa, man called WHO's "Sunday Talk Radio" program and told hosts Dena Michaels and Jim Frye he planned to shoot his wife and then himself because, he said, life's problems were overwhelming him. For more than two hours, Ms. Michaels and Mr. Frye kept the caller on the air while authorities traced the call and reached the man.

The next day's Des Moines Tribune reported: "Local officials praised two WHO-Radio talk show hosts today for their 'diligence and sensitivity'... they did a super job of keeping him talking..."

However, as dramatic as those two program incidents were, it has been WHO's long history of constant dedication to programming excellence, to public service, to integrity and to pioneering in new broadcasting techniques that earned it The American Women in Radio-Television's 1979 award for:

"Outstanding Achievement in Radio Station Performance."

But not all of WHO's wide area service is devoted to current on-air broadcasting. Little known by the public is special equipment installed at WHO's transmitter to facilitate continuation of radio transmission in the event of nuclear emergency. The equipment — "Electromagnetic Pulse (EMP)" — was installed in cooperation with the Defense Civil Preparedness Agency and the U.S. Navy.

WHO, along with a few other radio stations in the country, was selected by the Federal Government for the equipment on the basis of WHO's maximum amount of service to the maximum number of people over a long period of time.

The EMP, for which WHO bears all operation and maintenance costs, provides protection for the WHO transmitter, antenna system, emergency generator, selected program lines, underground broadcasting facilities and Emergency Broadcast System equipment. WHO's broadcast facilities thus can be used by authorities during the most severe national emergency.

Severe duplication or distortion of WHO's 1040 frequency would seriously diminish, if not destroy, the effectiveness of this federal civil preparedness and defense plan.

"CLEAR CHANNEL CONVERSATION"

8:00 p.m.-12:00 Mid., Monday-Friday
January 1 through December 30, 1981

SUMMARY OF CALLS CLEARED FOR BROADCAST

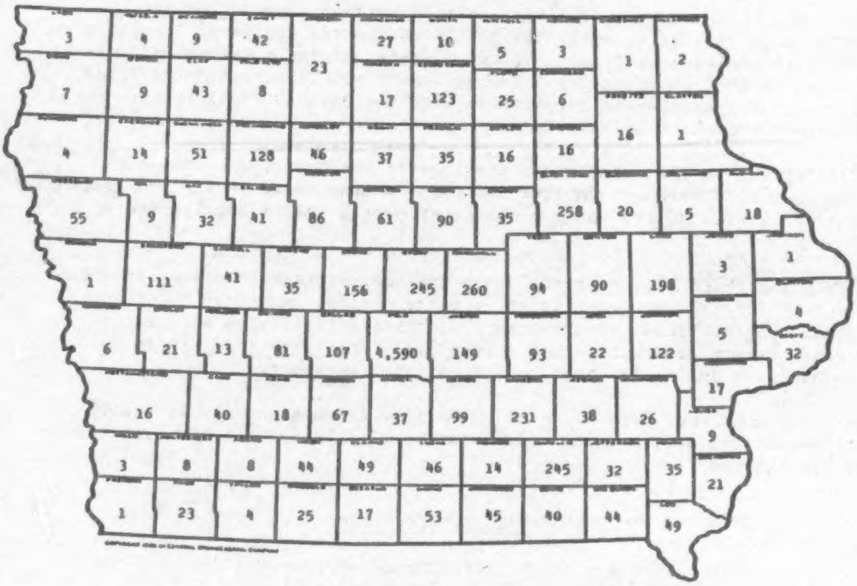
Total # calls received	9,870
Total # Iowa calls received	9,406
Total # U.S. calls received (not incl. Iowa)	452
Total # Canadian calls received	12
Males Iowa	4,897
Males U.S.	303
Females Iowa	4,509
Females U.S.	149
Iowa communities represented	482
Total U.S. & Iowa communities represented	702
Canadian communities represented	5
Iowa counties represented	99
U.S. states represented (incl. Iowa)	32
Canadian provinces represented	4

TOTAL NUMBER OF CALLS ATTEMPTED/ANSWERED: 66,662

Total number of calls attempted and answered for each of WHO-Radio's talk shows are recorded on an automatic "call-counter" device constructed by Northwestern Bell and tied into WHO Talkradio's in-studio computer system. Above information represents details for only those calls answered and "screened" by each show's producer.

"CLEAR CHANNEL CONVERSATION" IOWA TELEPHONE CALLS

8:00-12:00 Mid., Monday-Friday--Jan. 1 thru Dec. 30, 1981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49

"CLEAR CHANNEL CONVERSATION" IOWA TELEPHONE CALLS

8:00-12:00 Mid., Monday-Friday--Jan. 1 thru Dec. 30, 1981

Ackley 3
Adair 4
Adel 8
Afton
Agency 9
Albert City 5
Albia 11
Alden 5
Algona 10
Alleman 2
Allerton 4
Allison
Alta 3
Amana 5
Ames 165
Anamosa
Anita
Aplington
Armstrong
Ashton
Atalissa
Atkins
Atlantic 33

Audubon 10
Aurelia 3
Avoca

Badger 2
Bagley 2
Bancroft 2
Batavia 5
Baxter 4
Bayard
Beacon
Beaconsfield
Beaman 3
Bedford 3
Belle Plaine 25
Belmond 4
Bennett
Benton 5
Bettendorf 2
Birmingham 3
Blairsburg
Blakesburg 4
Bloomfield 35

Bode 2
Bondurant 5
Boone 137
Brayton
Brighton 2
Britt 4
Brooklyn 8
Buckingham 3
Buffalo Center 4
Burlington 20
Burt 4
Bussey 4

Callendar
Cambridge 4
Carlisle 2
Carroll 19
Casey 22
Cedar Falls 36
Cedar Rapids 147
Centerville 36
Chapin
Chariton 35

Charles City	13
Charlotte	
Charter Oak	4
Chelsea	2
Cherokee	5
Chester	2
Churdan	7
Clare	
Clarinda	9
Clarion	15
Clarksville	2
Clear Lake	14
Clermont	2
Clinton	3
Clio	
Clutier	
Coggon	
Colfax	8
Collins	3
Colo	11
Columbus Junction	3
Conesville	
Conrad	3
Coon Rapids	17
Coralville	7
Cornell	
Corning	6
Corydon	13
Coulter	2
Council Bluffs	11
Crawfordsville	
Cresco	
Creston	31
Dakota City	4
Dallas Center	3
Dana	
Danville	
Davenport	30
Dawson	4
Dayton	3
Decatur	2
Decorah	
Deep River	
Delta	12
Denison	91
Denver	3
Derby	3
Des Moines	4,574
Dexter	12
Dike	16
Donnan	
Donnellson	
Douds	
Dows	2
Drakesville	
Dubuque	13
Dumont	
Duncan	
Duncombe	2
Dunlap	5
Durango	5
Dysart	3
Eagle Grove	12
Earlham	29
Earling	
Earlville	3
Eddyville	3
Eldora	20
Elkader	
Elkhart	3
Elliott	
Ellsworth	2
Ely	
Emmetsburg	5
Estherville	39
Evansdale	2
Exira	2
Fairbank	
Fairfax	
Fairfield	21
Farmington	2
Farnhamville	10
Farragut	
Ferguson	8
Floyd	
Fonda	32
Fontanelle	3
Forest City	20
Fort Dodge	61
Fort Madison	14
Fostoria	
Fremont	7
Garden Grove	2
Garner	7
Garwin	
Geneva	
Gilbert	7
Gilbertville	
Gilman	3
Gilmore City	6
Gladbrook	5
Glidden	
Goodell	
Gowrie	6
Grand Junction	
Greene	3
Greenfield	10
Green Mountain	
Grimes	2
Grinnell	55
Griswold	2
Grundy Center	6
Gruver	
Guthrie Center	11
Hamilton	2
Hampton	11
Hancock	2
Hanlontown	2
Harcourt	5
Hardy	2
Harlan	13
Hartley	
Havelock	
Hawarden	2
Hazleton	
Hedrick	3
Henderson	
Highland Center	
Hillsboro	2
Holland	
Holstein	
Homestead	2
Houghton	
Hubbard	3
Hudson	
Humboldt	29
Humeston	16
Huxley	6
Ida Grove	8
Independence	11
Indianola	
Inwood	3
Iowa City	108
Iowa Falls	36
Ireton	2
Irwin	2
Jamaica	
Jefferson	19
Jesup	
Jewell	4
Kalona	3
Kamrar	4
Kanawha	2
Kellerson	
Kelley	2
Kellogg	5
Kent	
Keokuk	4
Keota	2
Keswick	4
Kirkman	
Kiron	2
Klemme	2
Knierim	
Knoxville	45
Lacona	3
Ladora	
Lake City	4
Lake Mills	
Lake Park	
Lamoni	6
Langdon	
Lansing	
La Porte City	
Larchwood	
Laurens	69
Lawton	
Le Grand	
Lehigh	2
Leighton	
Leland	2
Le Mars	4
Lenox	
Leon	7
Lewis	

Liberty Center
Libertyville 2
Liddersdale
Lincoln 2
Linden 3
Lineville 11
Liscomb 3
Livermore 7
Lockridge 4
Lohrville 5
Lorimer 11
Lovilia
Lowden 2
Lucas 5
Luther
Lu Verne 3
Lynnville
Lytton 4

Macksburg 4
Madrid 9
Mallard 2
Manchester 2
Manilla 2
Manning 3
Manson 7
Maquoketa
Marathon 6
Marcus 5
Marengo 3
Marion 41
Marshalltown 232
Mason City 107
Massena 3
Maxwell 6
Maynard
Melbourne 7
Melcher 7
Melrose 2
Menlo 6
Milford
Millersburg 2
Milo 24
Milton 6
Minburn 7
Mineola
Mingo 6
Mitchellville 2
Monroe 9
Montezuma 20
Montour
Montrose
Moorland 2
Moravia 3
Moulton 3
Mount Auburn
Mount Ayr 15
Mount Pleasant 24
Murray 13
Muscatine 12

Nashua 4
Nemaha 2
Nevada 15
Newhall
New Hampton 2
New Hartford
New London 6
New Sharon 7
Newton 99
New Virginia 2
Nichols
Nora Springs 2
North Liberty
Northwood 8
Norway
Numa 3

Oakland
Oelwein 9
Ogden 9
Okoboji 2
Olin
Ollie 2
Onawa
Onslow
Orient
Orleans
Osage 3
Osceola 35
Oskaloosa 214
Otho
Otley
Oto
Ottosen
Ottumwa 228
Oxford 3

Palmer
Palo 4
Panama
Panora 9
Parkersburg 4
Paton
Pella 18
Percival
Perry 53
Pershing
Peterson
Pilot Grove
Plainfield 3
Pleasantville 15
Pocahontas 15
Pomeroy 3
Popejoy 2
Postville
Prairie City 15
Prescott 2
Pulaski 4

Quasqueton

Radcliffe 6
Redding
Redfield 4
Red Oak 4
Reinbeck 4
Rembrandt 2
Renwick
Rhodes 2
Richland 3
Rinard 2
Ringsted
Rippey 4
Riverside
Rockford 3
Rock Rapids
Rockwell
Rockwell City 6
Roland 4
Rolfe
Rose Hill
Rowan 4
Rowley
Rudd 6
Russell

Sac City 23
Saint Ansgar 2
Saint Charles 16
Saint Marys 4
Sanborn 2
Schaller
Scranton 2
Searsboro 9
Sergeant Bluff 6
Seymour 9
Sheffield 18
Shelby 3
Sheldahl 2
Sheldon 5
Shell Rock 3
Shellsburg 52
Shenandoah 14
Sibley 3
Sigourney 9
Silver City
Sioux City 47
Sioux Rapids 3
Slater 3
Solon
Somers 3
Spencer 39
Spirit Lake 2
Springville 2
Stanhope 2
Stanley
Stanton 2
State Center
Steamboat Rock 4
Stockport 32
Storm Lake 35
Story City 18
Stratford 3
Stuart 25
Sully 2
Sumner
Sutherland
Swea City 2
Swisher

Tama 27
Terril
Thornton
Tiffin

Tingley 2
Tipton
Titonka
Toledo 8
Tracy 4
Traer 5
Truro 2

Union 13

Vail 2
Victor 3
Villisca
Vinton 9

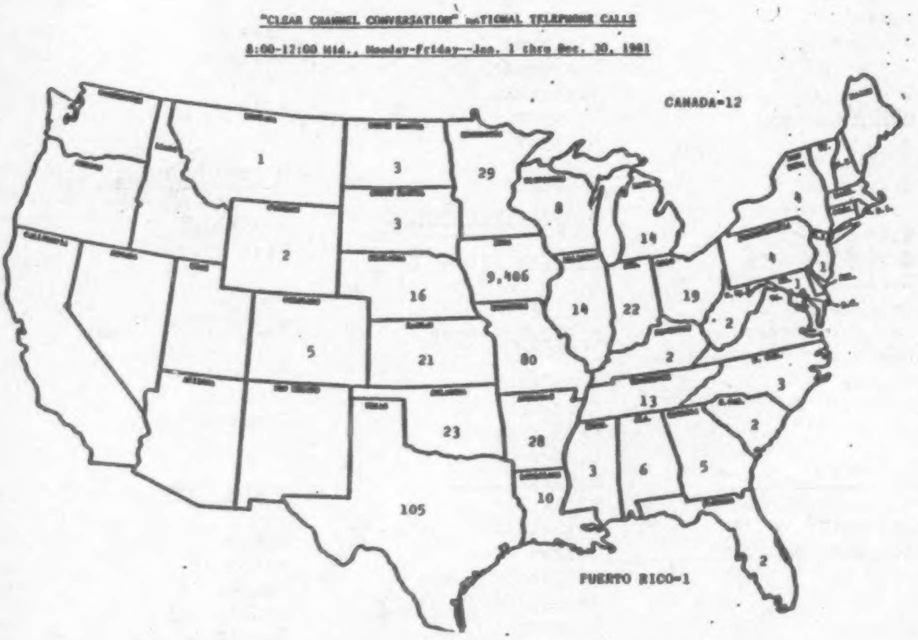
Wall Lake 2

Walnut
Wapello 6
Washington 19
Waterloo 217
Waukee 3
Waverly 9
Wayland
Webster
Webster City 43
Wellsburg 2
West Bend
West Branch
Westgate
West Liberty
West Point 27
Westside 10

West Union
What Cheer 2
Whittemore
Williams 2
Williamsburg 6
Williamson 2
Wilton Junction
Winfield 2
Winterset 16
Woodbine
Woodburn
Woodward 10

Yale 4

Zearing 2


"CLEAR CHANNEL CONVERSATION" NATIONAL TELEPHONE CALLS
8:00-12:00 Mid., Monday-Friday--Jan. 1 thru Dec. 30, 1981
CANADA=12
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6
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105
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2
PUERTO RICO-1

"CLEAR CHANNEL CONVERSATION" NATIONAL TELEPHONE CALLS

8:00-12:00 Mid., Monday-Friday--Jan. 1 thru Dec. 30, 1981

ALABAMA (6)

Anniston 2
Birmingham
Mobile 2
Sheffield

ARKANSAS (28)

Benton 4
Crystal Springs
Fayetteville
Fort Smith 6
Hardy
Hatfield
Jonesboro
Lakeview
Lincoln
Little Rock 5
Monticello
Mountain Home
Pine Bluff
Prairie Grove
Rogers
Waldron

COLORADO (5)

Alamosa
Denver 3
Lafayette

FLORIDA (2)

Jacksonville
Sarasota

GEORGIA (5)

Atlanta 3
Buford
Jefferson

ILLINOIS (14)

Avon

Carbondale
Carman
Champaign 4
Chicago 2
Henry
Murphysboro
Peoria
Rockford
Springfield

INDIANA (22)

Bedford
Bloomington
Fort Wayne
Indianapolis 15
Lafayette 2
Laurel
Rockport

KANSAS (21)

Abilene
Beaver
Cawker City
Ellsworth
Garden City 4
Goddard
Hutchinson 3
Manhattan 4
Newton
Topeka 2
Wichita 2

KENTUCKY (2)

Lexington
Louisville

LOUISIANA (10)

Alexandria 2
Bossier City
Lake Charles 3
Monroe
New Orleans
Noble

MARYLAND (1)

Baltimore

MICHIGAN (14)

Burlington
Cadillac 2
Clarklake
Dearborn Heights
Detroit 2
Flint
Houghton
Jackson
Lansing
St. Joseph
Wakefield
Waterford

MINNESOTA (29)

Duluth 2
Fairmont 4
Fridley
Hutchinson 2
Jackson 2
Kensington
Lewiston
Little Falls
Minneapolis 11
Owatonna
Side Lake
Trimont
Willmar

MISSISSIPPI (3)

Jackson 3

MISSOURI (80)

Brownwood
Carthage 6
Chillicothe
Doffey
Denver
Edina
Gainesville
Golden City
Joplin
Kansas City 13
Kearney
Kirksville 4
Mercer 3
Milan 4
Moberly
Princeton 2
Saint Joseph 5
Saint Louis 7
Saint Paul
Spickard 2
Springfield 7
Steelville
Trenton 6
Unionville 2
West Plains 6
Willard

MONTANA (1)

Melstone

NEBRASKA (16)

Comstock
Geneva
Lincoln 2
Nebraska City
Omaha 8
Ord 2
Royal

NEW JERSEY (1)

Camden

NEW YORK (4)

Albany
Buffalo
New York
Utica

NORTH CAROLINA (3)

Franklin
West Durham 2

NORTH DAKOTA (3)

Bismarck
Hamilton
Underwood

OHIO (19)

Adena
Akron 5
Canton 8
Cincinnati
Cleveland
Lima
Medina
Van Wert

OKLAHOMA (23)

Duncan
Elk City
Elmore City
Fort Sill
Geary
Oklahoma City 7
Seiling
Sentinel 2
Shattuck
Stillwater
Tipton
Tulsa 4
Wright City

PENNSYLVANIA (4)

Altoona
Green Hills
Washington 2

SOUTH CAROLINA (2)

Pickens 2

SOUTH DAKOTA (3)

Faith
Rapid City
Watertown

TENNESSEE (13)

Bone Cave
Chattanooga 4
Huntingdon
Jackson
Knoxville 2
La Grange
Memphis
Nashville
Vonore

TEXAS (105)

Abilene
Amarillo
Austin 2
Brownsville
Brownwood 21
Bryan
Carrizo Springs
Comfort
Corpus Christi 3
Crockett
Dallas 10
Eagle Lake
Fort Worth 3
Franklin
Graham 2
Henderson 18
Houston 7
Johnson City
Kileen
Lexington
Longview 4
Lubbock 3
Midland
Nacogdoches
Nederland
Oilton
Oklaunion
Olden
Rockdale
San Antonio 6
Seminole
Stephenville
Tyler
Victoria
Wedgwood
Wildwood
Woodway

WEST VIRGINIA (2)

Charleston
Parkersburg

WISCONSIN (8)

Elkhorn
Monroe
Oshkosh 2
Sparta
Spencer
Spooner 2

WYOMING (2)

Cheyenne
Kemmerer

PUERTO RICO (1)

"CLEAR CHANNEL CONVERSATION" CANADIAN TELEPHONE CALLS

8:00-12:00 Mid., Monday-Friday--Jan. 1 thru Dec. 30, 1981

MANITOBA (1)

Winnipeg

NEWFOUNDLAND (1)

Gander

ONTARIO (2)

Kitchener 2

SASKATCHEWAN (8)

Regina 4
Saskatoon 4

"MIDNIGHT EXCHANGE"

12:00 Mid.-1:00 a.m., Monday-Friday
January 1 through December 31, 1981

SUMMARY OF CALLS CLEARED FOR BROADCAST

Total # calls received	9,275
Total # Iowa calls received	8,517
Total # U.S. calls received (not incl. Iowa)	747
Total # Canadian calls received	10
Males Iowa	5,771
Males U.S.	600
Females Iowa	2,746
Females U.S.	152
Iowa communities represented	485
Total U.S. & Iowa communities represented	845
Canadian communities represented	7
Iowa counties represented	96
U.S. states represented (incl. Iowa)	35
Canadian provinces represented	3
U.S. territories represented	1

****

TOTAL NUMBER OF CALLS ATTEMPTED/ANSWERED: 11,661

Total number of calls attempted and answered for each of WHO-Radio's talk shows are recorded on an automatic "call-counter" device constructed by Northwestern Bell and tied into WHO Talkradio's in-studio computer system. Above information represents details for only those calls answered and "screened" by each show's producer.

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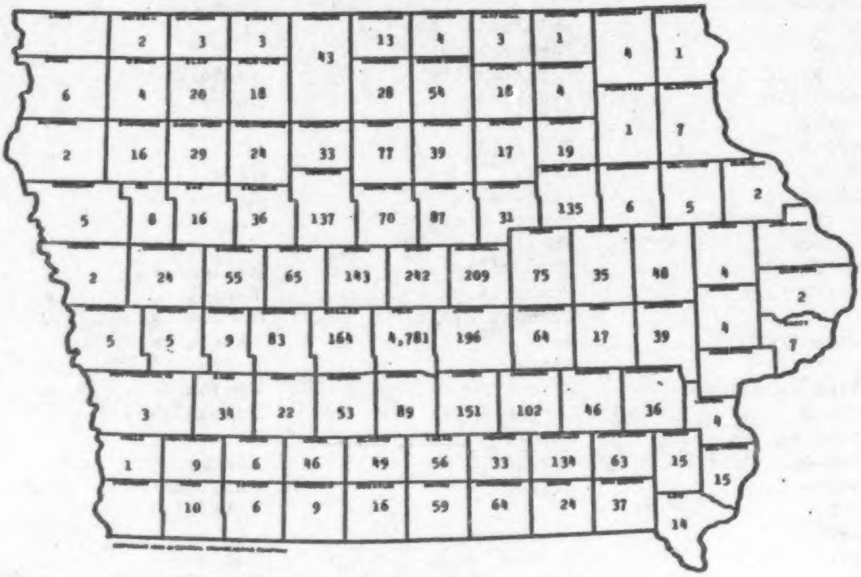
"MIDNIGHT EXCHANGE" IOWA TELEPHONE CALLS

12:00 Mid.-1:00 a.m., Mon.-Fri.--Jan. 1-Dec. 31, 1981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6
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164
4,781
196
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102
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56
33
134
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15
10
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16
59
64
24
37
14

"MIDNIGHT EXCHANGE" IOWA TELEPHONE CALLS

12:00 Midnight-1:00 a.m., Monday-Friday
January 1 through December 31, 1981

Ackley 6
Adair 5
Adel 37
Afton 4
Agency 3
Albert City 2
Albia 24
Albion 5
Alden 7
Alexander
Algona 14
Alleman
Allerton 3
Alta 4
Alton
Altoona 10
Ames 169
Anita 9
Ankeny 9
Aplington 2
Ashton
Atkins
Atlantic 18
Audubon 5
Aurelia 4

Badger 5
Bancroft 14
Barnes City 5
Batavia 18
Baxter 4
Bayard 2
Beacon 2
Beaman 2
Bedford
Belle Plaine 16
Belmond 7
Benton
Berwick 19
Bettendorf
Birmingham 2
Blairsburg
Blairstown
Blakesburg 9
Blencoe
Blockton 3
Bloomfield 11
Bonaparte
Bondurant 13
Boone 105
Booneville
Boxholm 2
Boyden
Braddyville
Bradford 2
Bradgate 2
Breda
Brighton 2
Britt 7
Brooklyn 9
Brooks 2
Brunsville
Buffalo Center
Burlington 13
Burt 2
Bussey 4

Callendar 5
Cambridge 3
Carlisle 37
Carroll 31
Casey 5
Cedar Falls 22
Cedar Rapids 42
Centerville 18
Chariton 40
Charles City 10
Chelsea 4
Cherokee 11
Chillicothe
Churdan 4
Cincinnati 3
Clare 6
Clarinda 7
Clarion 18
Clarksville 3
Clear Lake 9
Clive
Colfax 12
Collins 10

Colo 9
Columbia 2
Columbus Junction
Conrad 2
Conroy
Coon Rapids 8
Coralville 3
Corning 4
Corwith
Corydon 11
Coulter 5
Council Bluffs 2
Cresco
Creston 39
Crystal Lake 2

Dakota City 2
Dallas 2
Dallas Center 6
Dana 2
Danville
Davenport 5
Dawson 2
Dayton 21
Decatur 2
Decorah 2
Dedham 6
Deep River 2
Delhi
Deloit 2
Delta 9
Denison 17
Denver 2
Des Moines 4,694
De Soto
Dexter 20
Diagonal 2
Dickens
Dike 6
Dolliver
Donnelson
Douds 3
Dows 11
Drakesville 4
Dubuque 2
Dumont 4
Duncan 3
Duncombe 2
Dysart 9

Eagle Grove 23
Earlham 12
Earlville 2
Eddyville 15
Eldon 4
Eldora 5
Elkhart 2
Elk Horn 2
Ellston 2
Ellsworth 2
Elwood
Emmetsburg 15
Estherville 2
Evans
Evansdale

Everly
Exira

Fairfield 40
Farmersburg
Farnhamville 2
Fertile
Floris 2
Floyd 3
Fonda
Fontanelle 10
Forest City 8
Fort Dodge 79
Fort Madison 6
Fostoria 2
Fremont 7

Galva
Garber
Garden Grove 2
Garner 7
Garwin 3
Gibson 2
Gilbert
Gilbertville 11
Gilman 7
Gilmore City 7
Gladbrook 5
Glidden
Goldfield 14
Goodell 2
Gowrie 6
Grand Junction 12
Granger 14
Grant 2
Gravity
Greene 4
Greenfield 5
Grimes 6
Grinnell 40
Griswold
Grundy Center 10
Guthrie Center 30

Halbur
Hamilton 3
Hampton 27
Hanlontown
Harcourt 3
Harlan 3
Hartford 5
Hartley
Harvey 3
Hawarden
Hedrick 3
Highlandville 2
Holstein
Hubbard 4
Hudson 8
Humboldt 21
Humeston 12
Huxley 4

Ida Grove 5
Independence 3

Indianola 7
Iowa City 31
Iowa Falls 45
Ira 2

Jefferson 43
Jesup 2
Jewell 4

Kalo
Kalona 5
Kanawha 5
Kellerton
Kellogg 10
Kensett
Keokuk 4
Keosauqua 5
Keota 3
Kesley
Kimballton 3
Kiron
Klemme
Knierim
Knoxville 69

Lacona 7
Lake City 4
Lake Mills 3
Lake View 5
Lamoni 4
Lamont
Lanesboro 3
La Porte City 5
Latimer
Laurens 8
Le Claire
Le Grand 11
Lehigh 4
Leland
Lenox
Leon 6
Letts
Lewis 3
Libertyville 5
Linden 7
Lineville 8
Linn Grove
Liscomb
Livermore 6
Lohrville 3
Lone Rock 3
Lone Tree 3
Lorimer 2
Lost Nation
Lovilia 4
Lucas 5
Luther
Lu Verne 2
Lytton 3

Macksburg
Madrid 13
Malcom
Mallard
Malvern

Manchester 2
Manilla
Manly
Manson 11
Mapleton
Marathon 2
Marcus
Marengo 2
Marion 4
Marshalltown 167
Martensdale 3
Marysville 2
Mason City 40
Massena
Maxwell 3
Mediapolis
Melbourne 4
Melcher 13
Melrose 7
Menlo
Milford
Millersburg 2
Millerton
Milo 7
Milton 10
Minburn 7
Mingo 4
Mitchellville 12
Monroe 15
Montezuma 11
Montour
Montrose
Moorland 4
Moravia 5
Morning Sun
Morrison 2
Moulton 6
Mount Ayr 2
Mount Carmel 2
Mount Pleasant 6
Mount Union
Mount Vernon 2
Murray 11
Muscatine 4

Nashua 2
Nevada 20
Newhall
New Hampton 2
New Hartford
New London 2
New Providence 3
New Sharon 14
Newton 121
New Virginia 17
Nora Springs 2
North English 4
North Liberty
Norway 4
Numa

Odebolt 3
Oelwein
Ogden 18
Ollie
Onslow 4
Orange City
Orient 2
Osage 2
Osceola 33
Oskaloosa 64
Otley 3
Ottumwa 102
Oxford

Panora 8
Parkersburg 2
Paton 2
Paullina
Pella 27
Perry 26
Peru
Pilot Mound 4
Pisgah 5
Plainfield
Pleasantville 19
Pocahontas 10
Polk City 3
Pomeroy 3
Popejoy 2
Prairie City 17
Primghar
Prole
Promise City 14
Pulaski 9

Radcliffe 6
Rathbun 2
Readlyn
Reasnor 5
Redfield 2
Red Oak 5
Reinbeck 8
Rembrandt 4
Remsen 2
Renwick
Rhodes 5
Riverside
Rockford
Rockwell 2
Rockwell City 11
Roland 5
Rose Hill 9
Rowan 3
Royal
Rudd 2
Runnells 9
Russell 7
Ruthven
Rutland

Sac City 4
Saint Ansgar
Saint Anthony 2
Saint Charles 4
Saint Marys 5
Saint Paul
Schaller
Scranton 2
Searsboro
Selma 6
Seymour 10
Shambaugh
Sheffield
Sheldon
Shenandoah
Sibley
Sigourney 13
Sioux City 5
Slater 6
Somers
Spencer 15
Spirit Lake
Springville 2
Stanhope 2
Stanton
State Center 7
Steamboat Rock 2
Stockport 10
Storm Lake 16
Story City 11
Stratford 3
Strawberry Point 5
Stuart 34
Sully 6
Sumner 4
Swaledale 2
Swan 3
Swea City 2

Tama 26
Templeton 2
Terril
Thayer
Tingley
Tipton 3
Titonka 4
Toledo 18
Tracy
Traer 9
Trenton
Treynor
Truro 6

Union 8
Unionville
Urbana
Urbandale 2

Vail
Van Horne 3
Van Meter 3
Van Wert
Ventura
Victor 4
Villisca
Vincent
Vinton 8

Wapello
Washington 19
Waterloo 88
Waukee 20
Waukon
Waverly 11

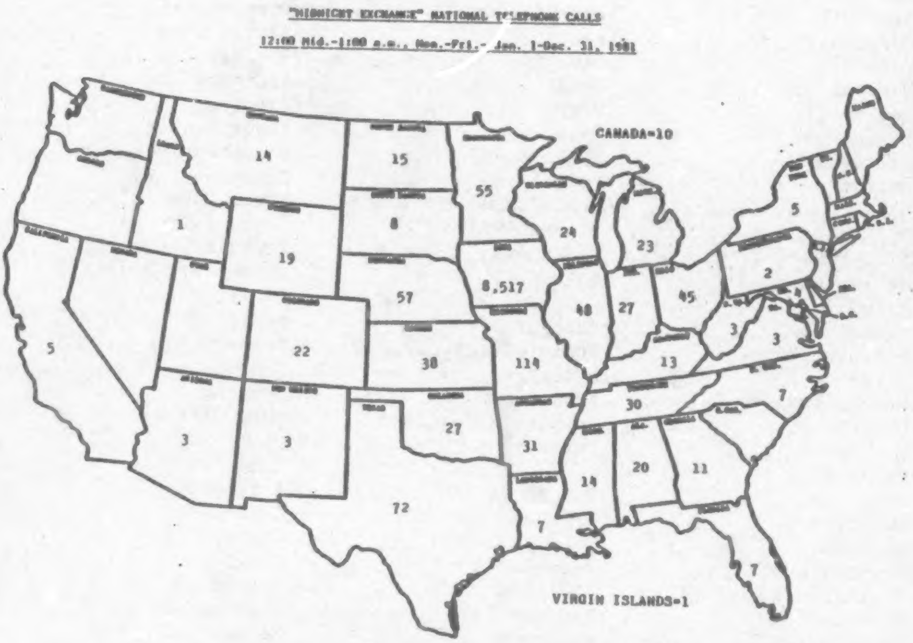
Wayland 5
Webster 2
Webster City 55
Weldon
Wellman 14
Wellsburg
Wesley
West Bend
West Branch
West Grove

Westside 2
Wever
What Cheer 13
Whittemore
Whitten
Whittier
Williams 3
Williamsburg 4
Williamson 4

Winterset 29
Wiota 2
Woodburn 5
Woodward 18
Woolstock

Yale 3

Zearing


"MIDNIGHT EXCHANGE" NATIONAL TELEPHONE CALLS
12:00 Mid.-1:00 a.m., Mon.-Fri.- Jan. 1-Dec. 31, 1981
CANADA=10
14
15
55
1
8
19
24
23
5
2
57
8,517
48
27
45
5
22
38
114
3
3
13
7
30
3
3
27
31
20
11
14
72
7
7
VIRGIN ISLANDS=1

"MIDNIGHT EXCHANGE" NATIONAL TELEPHONE CALLS

12:00 Midnight-1:00 a.m., Monday-Friday
January 1 through December 31, 1981

ALABAMA (20)

Anderson
Birmingham 7
Brundidge
Bryant
Carlton 2
Collinsville
Fayette 2
Pell City 2
Russellville
Selma
Tuscaloosa

ARIZONA (3)

Phoenix
Sun City 2

ARKANSAS (31)

Batesville
Compton
Conway
Flippin
Fort Smith 11
Huntsville 2
Little Rock 3
Mena 3
Minturn
Pine Bluff
Rogers
Springfield
West Memphis 2
Wynne
Yellville

CALIFORNIA (5)

Escondido
Los Angeles
Red Bluff
San Francisco 2

COLORADO (22)

Alamosa
Boulder 2
Canon City 2
Craig 2
Denver 9
Holyoke
Lakewood 2
Loveland

Oak Creek
Sterling

FLORIDA (7)

Middleburg 2
Ruskin
Saint Augustine
Tampa 2
Walnut Hill

GEORGIA (11)

Atlanta 7
Fort Valley
Macon
Rome 2

IDAHO (1)

Caldwell

ILLINOIS (48)

Chadwick
Chicago 10
Coal Valley
Crescent City
Crossville 2
Dallas City 3
Danville
Decatur
Effingham
Eldorado
Elmhurst
Freeport
Galesburg
Hudson
Lawrenceville
McHenry 2
Moline
Nauvoo 2
Noble
Norris City
Peoria 3
Quincy
Rock Island 10

INDIANA (27)

Albion
Auburn
Bloomington 4
Carmel
Chesterton
Columbus 2
Elkhart
Evansville 2
Fort Wayne 3
Indianapolis 5
La Porte
Lafayette
Monticello
Muncie
North Vernon
South Bend

KANSAS (38)

Atwood 3
Brewster
Conway
Dodge City 2
Emporia
Harlan
Junction City
Leavenworth 4
Manhattan 14
Nashville
Saint George
Saint John
Wichita 7

KENTUCKY (13)

Bowling Green
Central City 3
Georgetown 2
Glasgow
Pikeville 2
Princeton 2
Rockfield 2

LOUISIANA (7)

Alexandria
Calhoun
Lake Charles 3
New Orleans 2

MARYLAND (4)

Baltimore 4

MICHIGAN (23)

Albion
Benton Harbor
Detroit 5
East Tawas
Escanaba
Ishpeming
Kalamazoo
Lansing 4
Lincoln Park 2
Memphis
Port Huron
Saint Joseph
Scotts
Sparta

MINNESOTA (55)

Albert Lea 5
Austin 7
Avoca
Barnum
Blooming Prairie
Blue Earth
Brooklyn Center
Crookston
Fairmont
Glencoe
Hopkins
Hutchinson 15
Madelia
Minneapolis 8
Mora
Oklee
Park Rapids 2
Round Lake
Saint Paul 4
Sauk Centre
Sturgeon Lake

MISSISSIPPI (14)

Bruce
Cleveland
Crawford 2
Ellisville
Hattiesburg
Jackson 2
Meridian
Oxford
Pittsboro
Summit
Tupelo
Waynesboro

MISSOURI (114)

Albany
Bethany 3
Blythedale
Brookfield
Buffalo
Cabool
Cainsville
Carthage 7
Coffey
Downing 2
Eagleville
Edina
Edwards
El Dorado Springs
Fenton
Grant City 5
Green City
Hamilton
Hatfield
Humansville
Independence
Jefferson City 2

Kahoka
Kansas City 19
Kennett
Kingston
Kirksville 2
La Grange
Lake Ozark 2
Lanagan
Lancaster 2
Lucerne 5
Madison
Mercer 3
Milan
Milo
Moberly
Mountain View 5
Ozark
Pittsburg
Powersville 2
Princeton 2
Queen City 4
Redford
Rockport
Rolla
Round Spring
Saint Joseph
Saint Louis 2
Sedalia
Springfield 4
Sulphur Springs
Trenton 2
Unionville 2
Warsaw
Wayland
Worthington 2

MONTANA (14)

Billings 4
Colstrip
Ekalaka
Fairfiew 2
Great Falls
Havre
Miles City 4

NEBRASKA (57)

Alliance 2
Atkinson
Auburn
Butte
Hastings
Hay Springs
Indianola
Lincoln 7
North Platte 3
Omaha 16
O'Neill
Plattsmouth 2
Potter 11
Royal
Scottsbluff
Sidney 2
Valentine 2
Western
Whiteclay
York

NEW MEXICO (3)

Albuquerque
Farmington
Trementina

NEW YORK (5)

Horseheads 2
New York 3

NORTH CAROLINA (6)

Asheville
Fort Bragg 4
Highlands

NORTH DAKOTA (15)

Bismarck
Burnstad
Dickinson 2
Fairfield 2
Grand Forks 4
Jamestown 2
Minot 2

OHIO (45)

Barberton
Cincinnati
Cleveland 2
Columbus 3
Dayton
Delaware
Graytown
Hamilton
Hubbard
La Rue
Toledo 31
Youngstown

OKLAHOMA (27)

Ada
Alva
Broken Bow
Carter
Checotah
Guymon
Hartshorne
Lawton 2
McAlester
Oklahoma City 3
Owasso 3
Shattuck
Shawnee
Tryon
Tulsa 7
Watson

PENNSYLVANIA (2)

Pittsburgh 2

SOUTH DAKOTA (8)

Black Hawk 2
McIntosh
Pierre 2
Wagner
Wessington Springs
Whitewood

TENNESSEE (30)

Briceville
Chattanooga
Columbia 7
Dyersburg 2
Elizebethton
Huntingdon 2
Jackson
Martin
Memphis 3
Nashville 6
Paris
Ripley
Shelbyville 2
Trenton

TEXAS (72)

Abilene
Amarillo 5
Arlington
Austin
Baytown
Beaumont
Brownfield
Cleveland 2
Dallas 8
Dublin 2
Elkhart
Farwell 3
Fort Worth 6
Galveston 3
Gonzales
Hereford
Houston 8
Huntington
Liberty 2
Lubbock 9

McKinney
Mesquite
Midland
New Boston
Odessa
Paris 2
Sweetwater
Temple 3
Texarkana 2
Wolfforth

VIRGIN ISLANDS (1)

Saint Thomas

VIRGINIA (3)

Richmond 3

WEST VIRGINIA (3)

Asbury
Charleston
Colliers

WISCONSIN (24)

Antigo
Black River Falls
Columbus
Milwaukee 3
Osceola
Spooner 14
Waupaca
Weyauwega 2

WYOMING (19)

Casper 8
Lusk 6
Medicine Bow
Pinedale
Sheridan 2
Torrington

ONTARIO, CANADA (6)

Kenora
Kingston
Listol 3
Toronto

QUEBEC, CANADA (1)

Montreal

SASKATCHEWAN, CANADA (3)

Regina 2
(town not specified) 1

[INITIAL CORRESPONDENCE AND REPLIES]

October 23, 1981

The Honorable Charles E. Grassley
United States Senate
1227 Russell Senate Office Building
Washington, D. C. 20510

Dear Chuck:

As you know, Station WHO, operating from Des Moines, Iowa, has for more than 55 years provided a valuable broadcast service, day and night, to the residents of the entire state of Iowa. The station's extensive coverage of farm topics and news during the early morning hours has been especially important to the agricultural population it serves and has been the source of a variety of awards. In large part this wide area coverage has been possible because Station WHO has operated on a Class I-A clear channel frequency, 1040 KHz, and the FCC has never allowed another station to broadcast on that frequency during the nighttime hours. WHO has been conscious of the significant benefits its nighttime operation has provided to the people of the state of Iowa, and over the years has participated in numerous FCC proceedings and expended large sums of money to preserve its clear channel status.

Presently, we are concerned because of apparently reliable information coming to our attention to the effect that the Federal government, through the Voice of America or a similar agency, contemplates setting up a broadcast operation on 1040 KHz somewhere in the Florida Keys, beamed toward the Carribean area. Apparently, this is occuring outside the processes of the FCC.

We are aware that the national interest may well be served by our government having the ability to disseminate broadcast information in this area of the Western Hemisphere. However, the people of Iowa would be irreparably damaged if this were done in a manner that would adversely affect the ability of Station WHO to serve its present coverage area. Therefore, may I request that you look into this matter to determine if our information is substantially accurate. If it is, we would hope responsible officials could be urged to make every effort to find and utilize a frequency other than 1040 KHz, or, at a minimum, if this is not possible and use of that frequency can be justified as absolutely necessary, to make certain the proposed station is designed and operated in such a manner to prevent degradation of the WHO service.

We shall appreciate your investigating this matter, and look forward to hearing from you. If you have any questions that we may answer, please feel free to call me.

Sincerely,

Robert H. Harter

October 23, 1981

The Honorable Roger Jepsen
United States Senate
5327 Dirksen Senate Office Building
Washington, D. C. 20036

Dear Roger:

As you know, Station WHO, operating from Des Moines, Iowa, has for more than 55 years provided a valuable broadcast service, day and night, to the residents of the entire state of Iowa. The station's extensive coverage of farm topics and news during the early morning hours has been especially important to the agricultural population it serves and has been the source of a variety of awards. In large part this wide area coverage has been possible because Station WHO has operated on a Class I-A clear channel frequency, 1040 KHz, and the FCC has never allowed another station to broadcast on that frequency during the nighttime hours. WHO has been conscious of the significant benefits its nighttime operation has provided to the people of the state of Iowa, and over the years has participated in numerous FCC proceedings and expended large sums of money to preserve its clear channel status.

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We shall appreciate your investigating this matter, and look forward to hearing from you. If you have any questions that we may answer, please feel free to call me.

Sincerely,

Robert H. Harter

November 5, 1981

Mr. Kirk Ferrell
Administrative Assistant
Office of the Honorable Roger W. Jepsen
United States Senate
5327 Dirksen Senate Office Building
Washington, D. C.

Dear Kirk:

We appreciate your and Senator Jepsen's interest in our concern about the Federal government's possible use of WHO's Class I-A Clear Channel frequency of 1040 kHz. We understand a Federal agency contemplates use of the frequency for a broadcast service beamed toward the Carribean area, via a facility to be located in the Florida Keys. You indicated Assistant Secretary of State Enders confirmed the latter as the probable location, but was unable to provide you with any additional information.

As I mentioned, the "Voice of America" did make use of WHO's frequency on a previous occasion during, and prior to, the Kennedy Administration. The facility employed on that occasion was also beamed toward the Carribean area. Although its transmission was directionalized toward that specific area, it did degrade WHO's nighttime signal, and thus its service to listeners in the southeastern area of the country.

I am enclosing a map reflecting the perimeters of the present nighttime signal of WHO, and that which would be generated by another station operating on WHO's frequency, with a "non-directional" antenna, and like power of 50,000 watts, from a location in the Florida Keys. Within the area overlapped by both contours, designated "Interference Zone", the signals of each station, i.e., WHO and the proposed facility, would set up a level of interference with one another precluding satisfactory reception of either. There would also be a secondary area, extending well beyond this primary "Interference Zone", in which reception of either station would be difficult, at best. The contour appearing on the map presumes the proposed facility would operate with no more than 50,000 watts power. If its power authorization exceeds that level, the perimeter of its primary, let alone secondary coverage area would extend considerably beyond that reflected on the map. That would set up intolerable interference levels within a far larger portion of the area now covered by WHO's nighttime signal. And in that regard, it is important to remember a considerable portion of WHO's "nighttime" service to its rural and agricultural audience is rendered during pre-sunrise, or "nighttime" hours, i.e., 5:00-6:30 AM. Interference with its signal during those hours would adversely affect its ability to continue its award winning service to rural America.

We recognize the possible need of the Federal government to render a broadcast service to the Carribean area. Should such a need prevail, we respectfully request consideration be given to the use of a frequency other than that of WHO. If that is not possible, we then request every effort be made to design and operate the proposed facility in such a manner as to prevent degradation of WHO's service.

I hope you and Senator Jepsen will find this helpful.

Best regards.

Sincerely,

Robert H. Harter

November 9, 1981
(Dictated November 6, 1981)

Mr. Kirk Ferrell
Administrative Assistant
Office of The Honorable Roger W. Jepsen
United States Senate
5237 Dirksen Senate Office Building
Washington, D. C. 20036

Dear Kirk:

As an addendum to my letter of November 5, I am enclosing copy of a letter, and enclosures, Mr. William F. Rust, Jr., President of Rust Communications Group, Inc., recently addressed to Mr. Sol Taishoff, Chairman and Editor of Broadcasting Publications, Inc. I believe you and Senator Jepsen will also find this of interest when reviewing our concern over the possible use of WHO's frequency of 1040 kHz by the Federal government. Mr. Rust is a long-time friend and widely recognized as one of our industry's foremost executive engineers.

In his letter to Mr. Taishoff, Mr. Rust raises the question of why the Federal government should build "another" station to provide a radio service to the Carribean area, when they already have a high powered, directionalized facility performing that function from a site at Marathon, Florida. Mr. Rust is quite familiar with that operation, as it employs the former Class I-A, Clear Channel frequency of 1180 kHz assigned to his station, WHAM, Rochester, New York. He specifically mentions interference WHAM has suffered from the jamming tactics Cuban stations employ to interfer with reception of the Marathon station in that country. They would undoubtedly resort to similar tactics to preclude reception of any programming broadcast via 1040 kHz. That would set up "additional" levels of interference to the WHO signal.

I hope you and Senator Jepsen will find this additional documentation of reasons for our concern helpful. If you wish or need additional information, please call me.

Thank you again for your and the Senator's interest.

Best regards.

Sincerely,

Robert H. Harter

November 3, 1981

Mr. Robert Harter
WHO Radio
1100 Walnut Street
Des Moines, Iowa 50308

Dear Bob:

I thought that you might be interested in the attached papers.

Regards,

Bill

W. F. Rust, Jr.

November 3, 1981

Mr. Sol Taishoff, Editor
Broadcasting Publications, Inc.
1735 DeSales Street, NW
Washington, DC 20036

Dear Sol:

There seems to be nothing new under the sun, and the same political boondoggles are rediscovered again and again. Why must we spend millions to build "Radio Marti" to propagandize Cuba, when we have had a "Radio Marti" operating at Marathon on the Florida Keys since 1962? This is a high powered AM station with a directional antenna aimed at Cuba and operated by the Voice of America. It has been broadcasting the "truth" to Cuba on WHAM's formerly Clear Channel of 1180 kHz ever since the Cuban missile crisis of 1962. The operation has been in violation of FCC allocations and international treaties. After many years of effort, WHAM gave up the struggle to get the Marathon station closed down. I understand that it is now broadcasting only between 7-10 AM and 5-8 PM. Although the VOA station is directional and protects WHAM somewhat, Castro has used jammers operating on 1180 kHz which interfere in all directions.

Several stations were built during the Cuban missile crisis that were like the Marathon operation. One was operated by the Navy on 1040 kHz (WHO's frequency), but was later abandoned after severe hurricane damage. There were one or two more similar stations, but all were soon abandoned except the one on 1180 kHz at Marathon. It has been costing the taxpayers money and interfering with WHAM illegally for 19 years. President Reagan's budget balancers could save the taxpayers some money by either using the Marathon installation for "Radio Marti" or by closing it down.

WHAM worked hard from 1962 to 1966 to get this albatross off of 1180 khz but we got nowhere. The attached letter from John Chancellor, when he wa Director of the Voice of America, is typical. We raised serious question but we got no answers or action to help the situation.

I have enjoyed all of the radio broadcasting history in recent issues of Broadcasting. In retrospect, I find it incredible that American Industry spent almost nothing on developing radio and electronics technology during the 20 years prior to World War II.

Very sincerely yours,

Bill

William F. Rust, Jr.

December 28, 1966

Mr. W. F. Rust, Jr.
Rust Broadcasting Company Inc.
350 East Avenue
Rochester, New York 14604

Dear Bill:

I have passed your letter of December 21st on to our USIA General Counsel, Dick Schmidt. We'll be going over carefully the various points you have made, and we'll get back to you after the first of the year.

You write well. I'm sorry that more of the mail I read isn't this well done, but I'm happy that very little of my correspondence raises problems as knotty as yours.

Very sincerely yours,

John

John Chancellor
Director

November 12, 1981

Mr. Robert H. Harter
President
Palmer Communications Incorporated
1100 Walnut Street
Des Moines, Iowa 50308

Dear Bob:

Thank you for alerting me to the possibility of another radio station in the Florida Keys being able to broadcast on 1040 KHz. I have contacted the Federal Communications Commission about this matter and will let you know as soon as I have a response.

Sincerely,

Chuck Grassley

CHARLES E. GRASSLEY
U. S. Senator

November 12, 1981

Mr. Robert Harter, President
Palmer Communications, Inc.
1100 Walnut
Des Moines, Iowa 50308

Dear Robert:

Thank you for your correspondence regarding the possible use by the federal government of WHO's Class I-A Clear Channel frequency of 1040 kHz.

My office has contacted the Department of State concerning your inquiry. As soon as a response is received, we will be in touch with you.

Sincerely,

Roger

Roger W. Jepsen
United States Senator

January 7, 1982

Mr. Robert Harter, President
Palmer Communications, Inc.
1100 Walnut
Des Moines, Iowa 50308

Dear Robert:

Enclosed is a copy of a response received from the Department of State concerning the federal government's use of WHO's Class I-A clear channel frequency of 1040 kHz.

I hope the information is helpful. If my office can be of further assistance, please let us know.

Sincerely,

Roger

Roger W. Jepsen
United States Senator

December 29, 1981

Dear Senator Jepsen:

I am responding to your letters of November 12 and 17 to Assistant Secretary Fairbanks regarding the concern expressed by Palmer Communications, Inc., about the Federal Government's proposed use of 1040 kHz for broadcasting to Cuba.

The frequency 1040 kHz is tentatively selected for use by Radio Broadcasting to Cuba after a careful examination of alternative frequencies in coordination with the Federal Communications Commission and the National Telecommunications and Information Administration. It is intended that the antenna array will be designed to provide maximum feasible protection to station WHO's service area.

Use of the VOA station at Marathon, Florida, was considered and rejected because such use would be inconsistent with the legislated purpose of VOA. Although VOA is broadcasting to Cuba and other countries in the Caribbean area, there is an essential difference between the programming mandates of VOA and Radio Broadcasting to Cuba. The VOA is charged with the general reporting of events throughout the world, including the United States. Radio Broadcasting to Cuba will focus on Cuba by telling the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this Hemisphere and elsewhere, and it will tell the Cuban people what these activities cost in terms of living standards for them and their children and will correct the false image they have been given of Cuba's international reputation.

I hope this information will be useful to you.

Yours sincerely,

Alvin P. Drischler
Deputy Assistant Secretary
for Congressional Relations

February 8, 1982

Mr. Robert H. Harter
President
Palmer Communications Incorporated
1100 Walnut Street
Des Moines, Iowa 50308

Dear Bob:

Enclosed please find the letter I received from the Department of State regarding a new radio station broadcasting to Cuba. I hope this addresses some of your concerns about this issue and that you will let me know if there is anything else I can do for you.

Sincerely,

CHARLES E. GRASSLEY
U. S. Senator

February 1, 1982

Dear Senator Grassley:

I refer to your January 5 letter to Assistant Secretary Thomas Enders on behalf of Mr. Robert H. Harter concerning Radio Broadcasting to Cuba (RBC), commonly called Radio Marti.

The President has announced his intention to establish a program of A.M. broadcasting to Cuba, and Senator Percy introduced legislation to that effect in the Senate November 16. While no final decision on a frequency has been made, 1040KH2 is under definite consideration. Those involved are quite sensitive to the interests of other broadcasters, especially U.S. commercial stations such as WHO. Every effort will be made to protect their interests, including the use of highly directional antennae.

Mr. Harter's concerns will be brought to the attention of the President's Commission on Radio Broadcasting to Cuba, which may well wish to discuss them with him.

Sincerely,

Alvin Paul Drischler
Acting Assistant Secretary
for Congressional Relations

97TH CONGRESS
2D SESSION

H. R. 5427

To authorize support to Radio Broadcasting to Cuba, Incorporated.

IN THE HOUSE OF REPRESENTATIVES

February 2, 1982

Mr. Zablocki (by request) introduced the following bill; which was referred to the Committee on Foreign Affairs

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A BILL

To authorize support to Radio Broadcasting to Cuba, Incorporated.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby finds and declares—

(a) that it is the policy of the United States to support the right of the people of Cuba "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with article 19 of the Universal Declaration of Human Rights;

(b) that, consonant with this policy, Radio Broadcasting to Cuba, Incorporated, in its planned broadcasting to Cuba, may be effective in furthering the open communication of information and ideas to the people of Cuba, and in particular accurate information about Cuba; and

(c) that such broadcasting by Radio Broadcasting to Cuba, Incorporated, operating in a manner not inconsistent with the broad foreign policy objectives of the United States and in accordance with high professional standards, would be in the national interest.

SEC. 2. There is hereby authorized to be appropriated to the President for the purposes of this Act $10,000,000 for fiscal year 1982, and for fiscal year 1983 such funds as may be necessary.

SEC. 3. Funds or other support authorized by the Act may be granted to Radio Broadcasting to Cuba, Incorporated, only upon the following conditions:

(a) that Radio Broadcasting to Cuba, Incorporated, is operating in a manner not inconsistent with the foreign policy objectives of the United States and in accordance with high professional standards and in the national interest; and

(b) that Radio Broadcasting to Cuba, Incorporated, keeps records which fully disclose the source and use of support provided pursuant to this Act, or from any other person or organization, which are available at all times to the Secretary of State and the Comptroller General for the purpose of audit or examination for any other purpose.

SEC. 4. Pending the statutory designation of an appropriate Federal granting and oversight agency, the Secretary of State shall be responsible for making grants of funds and for approving other support authorized by this Act. The Secretary shall determine when the conditions of section 3 have been met and shall have authority to establish such other terms and conditions as he deems appropriate.

SEC. 5. When Federal funds have been made available to Radio Broadcasting to Cuba, Incorporated, pursuant to this Act, any agency or instrumentality of the United States is authorized to sell, loan, lease, or grant property (including interests therein) to, and to perform administrative and technical support and services for the operations of Radio Broadcasting to Cuba, Incorporated, and the Presidential Commission on Broadcasting to Cuba on a reimbursable basis or, at the direction of the President, without reimbursement. Any reimbursement shall be credited to the appropriation from which the support or services were derived.

SEC. 6. The Secretary of State is authorized to accept and use, on behalf of the Presidential Commission on Broadcasting to Cuba, donations of funds, property, and services of any kind, which may be made available for the purposes of the Commission and of this Act.

SECURITIES AND EXCHANGE COMMISSION

STATEMENT OF FREDERICK D. GOSS, EXECUTIVE DIRECTOR, NEWSLETTER ASSOCIATION OF AMERICA, INC.

Senator WEICKER. Mr. Fred Goss. Is Mr. Goss here, the director of the Newsletter Association of America?

Mr. GOSS. Mr. Chairman, with your permission, I will enter the formal statement into the record. I will summarize it as briefly as I can.

I am Frederick D. Goss, executive director of the Newsletter Association of America, an international trade association that publishes newsletters and other specialized information services. The obvious question is what interest do newsletter publishers have in the operation of the Security and Exchange Commission? The answer is that publishers of financial advisory newsletters are required to register with and are subject to extensive regulations by the SEC.

Our view is that this regulation of registration is entirely unjustified. The Investment Advisers Act passed in 1940 contains an exemption for "The publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation."

It is only an administration interpretation of the SEC that requires that to be bona fide, general and regular you need to contain adds and be sold on newsstands. We submit that newsletter-type publications, many of which have subscribers in every State of the Union, take free advertisements and publications like Baron's and send out hundreds and thousands or even millions of direct mail promotions; are general and regular by any reasonable definition and should be included in that exemption.

In fact, every issue of Money magazine, Baron's financial newspaper and every Wall Street Review Week and television program contains financial advice precisely, similarly to be conveyed by many of these newsletters which are required to be registered.

We also ask, then, what it is that the newsletters present that requires this regulation?

We submit that if a newsletter publisher or employee were to be guilty of violations of security laws, there are other existing acts under which they could be prosecuted which the SEC has used to move against other types of investment advisers. We further point out that newsletter publishers contain no client funds, as do other types of investment advisers. The only moneys are those paid for by subscribers. While the possibility does exist that a publisher might go out of business, or conceivably default on his obligation, there are over 2,000 newsletter publishers in the United States, which are other agencies, such as the FTC, have not felt to go forth with a scheme to protect them from this remote possibility.

In our testimony, we put a $4 million price tag on the SEC's regulation of newsletters. We note that they contest this price. They are unable or unwilling to provide us a cost for annually regulating newsletters. We developed this price by an analysis of information we got through the FOI and that was the amount of time and personnel that appeared to be expended on publications.

We would be more than happy to have them price a more precise figure for a price tag of regulating the publishers of financial newsletters, because we submit this is a program which has no constituency beyond the staff of the Commission itself.

There would, of course, be several possible remedies for what we regard as this inappropriate treatment of newsletter publishers. An administrative decision could be made at the Commission that newsletters qualify for the exemption contained in the act. The Reagan administration's posture over the regulation, at least, in the SEC staff, has made no endeavor to take such an action. The word newsletter could be added to the exemption language in the act. The SEC Chairman is aware there is no small or uncontroversial item that is not a long and arduous process.

We are working with the Banking Committee. I would conclude by pointing out that I think every other witness here this morning has been testifying for increased expenditures for some program. Most of them appear to make very adequate cases to the need and benefits that the particular program conveys.

I am talking about the reduction in a cost of one program, an admittedly small amount, but an amount which as the association can see is doing no public good and for which there seems to be no demonstrable public need.

Thank you, Mr. Chairman.

PREPARED STATEMENT

Senator WEICKER. Thank you very much for your comments, for succinctly putting forth your case. Your prepared statement will be placed in the record.

[The statement follows:]

Statement of Frederick D. Goss

Good Morning. Thank you for affording us this opportunity to address this Committee. My name is Frederick D. Goss, and I am Executive Director of the Newsletter Association of America. Our more than seven hundred members publish over 1,700 newsletters read by several million Americans.

We request that you remove from the appropriations for the Securities and Exchange Commission all monies used to fund its newsletter regulation and censorship program. This would produce direct budget savings in Fiscal '83 of $4,000,000. In addition, reduced private sector regulatory costs would substantially boost tax receipts.

The Securities and Exchange Commission's control of the newsletter industry has its roots in the Investment Advisers Act of 1940, which requires money managers, investment counsellors, pension fund advisers and similar custodians of the public's funds to register with the SEC as investment advisers. Congress, in its wisdom, specifically excluded from the definition of an investment adviser "the publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation."

Over the years the SEC has interpreted that exclusion for its own purposes, holding that investment oriented newsletters are not "bona fide" publications of general and regular circulation. From that regulatory interpretation has grown the SEC's extensive and expensive program of newsletter regulation.

Newsletter publishing is the only form of speech or press regulated by prior government license. No other form of publishing activity requires a prior license from the U.S. Government.

Many of our members publish newsletters that cover financial and investment topics and therefore the Securities and Exchange Commission considers them to be "investment advisers" - even though these newsletter publishers have no control over, or custody of, readers' investments. Magazines and newspapers containing identical investment reports and recommendations are not required to register as advisers. Only newsletters are subject to this discriminatory regulation.

Once registered, the SEC requires newsletter publishers to file financial reports more detailed than those required of many small public companies. The SEC strictly regulates the advertising policies of financial newsletters, but not the competing advertisements of financial magazines and newspapers. The SEC devotes substantial resources to detailed investigations of newsletter publishers' books and records while claiming it lacks the facilities to make annual examinations of all money and mutual funds - entities controlling a quarter of a trillion dollars of investors' monies.

We submit that your constituents are far more interested in the SEC keeping an eye on the money fund industry than in censoring newsletters. Furthermore, there are no abuses which require regulation of the newsletter industry in the name of the public good. The same laws which the SEC would use to punish misconduct by a Wall Street Week television commentator or the editor of Forbes magazine or a writer for The Wall Street Journal, if any such abuses should ever occur, are more than adequate to deal with any misconduct in the newsletter industry, assuming that that misconduct might ever occur. The sole reason for the SEC's newsletter regulation and censorship program is perpetuation of the program itself. This is regulation for the sake of regulation.

The SEC denies that this program costs $4,000,000 a year, but refuses to provide an alternate figure. Our estimate of the cost of this program is based on information we have obtained through the Freedom of Information Act.

The SEC claims that its activities do not include outright censorship because newsletters are not required to submit material for clearance in advance of publication. However, the first step of every newsletter inspection is to require the publisher to provide the SEC inspector with a back file of all publications, newsletters, reports, advertisements - even books - published in the past year. Any student of Freedom of the Press can tell you that the most insidious forms of censorship are not always the most blatant. The staff of the Commission manages to make clear to newsletter publishers what type of information and articles it considers inappropriate and offensive. Needless to say, criticism of Commission policies by newsletter publishers is almost non-existent.

We submit that in an era of deregulated airlines, broadcasters, trucking lines, and a dozen other examples, it is time to save the taxpayers $4,000,000 a year by terminating SEC funding for newsletter regulation and censorship. No legislative change is required because no legislation mandates such regulation. The entire program is a creation of SEC interpretations and can be dismantled by the SEC by the stroke of the pen, if Congress will simply cut off the funding.

Individual publishers are understandably loathe to criticize an agency that holds life and death power over their newsletters. However, the Newsletter Association of America, speaking both on behalf of our industry, and as the representative of a substantial body of taxpayers, urges you to eliminate this program from SEC appropriations for the forthcoming fiscal year.

There are substantial constituencies and substantial public support for many of the programs you will be forced to trim as you work to reduce federal spending and achieve a more balanced budget. There is absolutely no constituency, and no public support whatsoever, for the SEC's continued lavish expenditures on newsletter regulation and censorship. We respectfully request that you put an end to these expenditures.

Thank you.

SUBMITTED STATEMENTS

Senator WEICKER. I have some additional statements that I will insert in the record at this point.

[The statements follow:]

STATEMENT OF THE NEW YORK PATENT LAW ASSOCIATION

The New York Patent Law Association ("NYPLA") is an association of more than 1,200 lawyers interested in patent, trademark and copyright law, who reside or have offices in the States of New York, New Jersey, Connecticut and Vermont.

NYPLA shares the concern expressed in Senator Weicker's statement introducing S.2326 that the fees mandated by S.2211 would be so high as to discourage invention and innovation. While NYPLA supports reducing those fees for small businesses, universities and individual inventors, we urge that such reduced fees be made applicable to all applicants. NYPLA also supports Sections 3(a) and 3(b) of S.2326 which sets the new PTO fees, since the provision of S.2211 authorizing the Commissioner to set fees on the basis of PTO costs weakens the incentive to control such costs.

However, NYPLA does not agree with the unstated premise of S.2326 that the public interest will be served by requiring patent applicants other than small businesses, universities and individual inventors and all trademark applicants to pay fees at a level which would recover essentially 100% of PTO costs.

The patent system serves the public interest in two ways. First, it encourages innovation by rewarding the innovator with a patent. The second and much more significant public interest is that the innovator must make a public disclosure of his innovation as a condition of obtaining a patent. The public interest in this disclosure is so great that PTO fees should be set at the lowest possible amount. Since a "large business" has additional ways to compete in the marketplace, it has a lower incentive to make the public disclosure which results from the issuance of a patent. Charging "large business" double the fees of "small business" is thus not in the public interest nor in the interest of "small business" which benefits from its ability to build upon such public disclosure.

With respect to trademark fees, it must be remembered that the trademark process, by its notice functions, is an essential part of the clearance of new marks for use in the marketplace. This PTO process benefits the public by avoiding public confusion and economic waste resulting from the use of a mark confusingly similar to one already in use. The increased fees which would result from P.L. 96-517 would be a threefold or fourfold increase of the fees presently in effect. Either S.2211 or S.2326 would almost double this increase and undoubtedly prove a substantial deterent to the utilization of the trademark process.

NYPLA recommends that S.2326 be amended to establish patent fees for all applicants at the same level, and suggests that such fees be those mandated by P.L. 96-517. NYPLA also recommends that S.2326 be further amended to include a schedule of trademark fees, and suggests that such fees be 60% of those which have been proposed by the Commissioner under his "100%" recovery formula. NYPLA finally recommends that S.2326 be further amended to appropriate to the PTO sufficient additional public funds to enable it to expend the $152,000,000 which Commissioner Mossinghoff has demonstrated is needed if it is to do its job in a satisfactory manner.

STATEMENT OF DR. QUENTIN M. WEST, DEPUTY DIRECTOR GENERAL, INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE

I am Dr. Quentin M. West, Deputy Director General of the Inter-American Institute for Cooperation on Agriculture (IICA). With me are Dr. Luis A. Montoya, Director of the United States and Canada Office of IICA, and Dr. Francis J. Mulhern, Director of Animal Health for IICA. Dr. Francisco Morillo, the Director General of IICA wants me to express his appreciation to the Chairman and the Committee members for allowing IICA to inform you about our fiscal problems. He also regrets that he could not be here personally to report to you, but at the time the invitation was received, he was already committed to go to Brazil to arrange payment of that country's delinquent account. Dr. Morillo took office as the newly elected Director General, January 15th of this year and he appointed me as Deputy Director General at that time. For the past eight years I represented the United States on the IICA Board of Directors.

Up to 1981, IICA has received U.S. contributions on a quarterly basis, usually during the first month of each quarter. Since the United States contribution amounts to 61.6 per cent of the total quota funds paid to IICA, it has established a firm basis for the continuity and maintenance of the activities of the organization. However, in the 1982 budget, the Department of State proposed, and Congress accepted, a plan to defer payments to certain international organizations which could have a very detrimental effect on this agency which depends so heavily on the United States contribution for its operation.

The Department of State has recognized the monetary problems this action has placed upon IICA and has arranged to make its payments during calendar year 1982 so that the detrimental effects upon IICA will be kept to a minimum for that period. This action on the part of the Department of State has been deeply appreciated by the Management of IICA. However, the situation to be faced by IICA in 1983 is that there will not be any U.S. funds available to provide IICA for its programs until the last quarter of calendar year 1983 or the first quarter of the United States 1984 fiscal year. It is also proposed that any future allotments will also be provided in the last quarters of each calendar year.

This will force IICA to borrow money at high interest rates for the amount of the difference between what other countries will provide during the first nine months and the expenditures authorized for that period. The utilization of quota funds to pay the interest on these loans implies that all countries will be obliged to pay for the interest.

Congress has already exempted the Organization of American States (OAS) and the Pan American Health Organization (PAHO) from these international organizations whose payment the United States will defer. The justification used to exclude OAS and PAHO applies equally to IICA, so, therefore, it is probable that the action taken by both Houses of Congress was an oversight. IICA is also an agency of the Inter-American System that makes important contributions to the countries of the Hemisphere as it is responsible for the major agricultural technical cooperation projects with these countries.

IICA was established by the governments of the Americas to stimulate, promote, and support the efforts of the Member States to achieve agricultural development and well-being for the rural population.

The Inter-American Institute of Agricultural Sciences was founded in October 7, 1942 at the initiative of the United States Secretary of Agriculture, Henry A. Wallace. It was reorganized under its new name, the Inter-American Institute for Cooperation on Agriculture, under a Convention that entered into forced in December, 1980.

Until 1980, the Board of Directors of IICA was composed by the same Representatives of the Permanent Council to the OAS. With the new Convention, the maximum authority of the Institute is the Inter-American Board of Agriculture. On this Board the Governments of all Member States are represented by their Ministers of Agriculture or high-level delegates involved in agricultural and rural development of their countries.

Working together with the authorities of the Ministries of Agriculture of all Member Countries, IICA seeks to increase agricultural production and productivity, enlarge the capacity for generating employment in the rural sector, and expand the participation of the rural population in the socio-economical process. IICA has projects underway with 29 Member countries of this Hemisphere, including projects with USDA, AID, American universities, Kellog Foundation, and other US agencies.

Numerous experts on Latin America and the Caribbean have stressed the importance of agricultural development in those countries to relieve their socio-economic situation. Recent announcements by the United States have also highlighted this important factor.

IICA, through its Animal and Plant Health Programs, can provide direct benefits to the agricultural interest of the United States by its work to improve control over pests and diseases in Latin America and the Caribbean countries that may spread to the livestock and crops of the United States. An example is IICA's program to eradicate African Swine Fever in Haiti. This is the most serious disease of swine in the world and no vaccine exists despite years of research by many countries to produce one. It threatens all the countries of the Caribbean as well as the United States. It could devastate the multibillion dollar swine industry of the United States.

IICA is planning projects for the control of Screwworm, Mediterranean Fruit Fly, Oriental Fruit Fly, and other pests and diseases that threaten agricultural interests of the United States. The seriousness of these pests like the Mediterranean Fruit Fly that was introduced into California last year has been well documented.

IICA is an independent organization that, together with PAHO, is considered one of the most vital specialized agencies of the Inter-American System. IICA has exactly the same problems with cash flow and diminution of benefits to recipient countries as the other two agencies that were excluded. Just as the OAS and PAHO, which receive 66% of their contributions from the United States, IICA depends on the United States for 61.6% of its quota payments. Thus, for all three organizations the U.S. contribution is far more crucial to the functioning and even survival of these organizations than in the case of an organization such as the United Nations that received only 25% of its quota from the United States.

The Inter-American Institute for Cooperation on Agriculture has about ninety projects in Member countries of the Hemisphere and a well-established working relationship with the Ministries of Agriculture of these countries, including those of the Caribbean Basin which President Reagan has mentioned as areas of high priority for the United States. IICA's efforts in these areas should be strengthen not weakened at this difficult moment when the specter of food shortage threatens the Hemisphere and the world.

When we took office in January of this year we found that IICA has already borrowed $3 million because of delinquent 1981 payments, principally Brazil, the United States, and the Inter-American Development Bank. This cash flow situation was made more difficult by the deferral plan of the United States.

We immediately instituted an austere level of operations to improve our financial status. Twenty-five per cent of authorized positions are frozen which stops any planned expansion that was approved by the Member countries and any new vacancies that exist due to resignations, retirements, etc., are not being filled. No transfers of personnel are being permitted despite the need to do so to improve management of the organization. Operation costs are being reduced by twenty per cent. Money is not available to compensate for any costs due to inflation. New policies that the directorship believes are essential to provide new momentum to the organization's program must be postponed.

Resolutions that were approved and considered essential by the representatives of the Member countries at the last Board of Agriculture Meetings must be suspended or cancelled. New activities in Animal and Plant Health, and Women's Participation in Rural Activities must be postponed. Finally, the organization was directed to expand its operations in the Caribbean Basin, but under the present situation it is obvious that any significant expansion would not be possible.

Cables were dispatched to all countries and to contractors alerting them to this critical situation and requesting their immediate cooperation. Response has been excellent. We have received $1.4 million of the delinquent 1981 contract from IDB, Brazil, and other contractors. Colombia, Mexico, Haiti, and Paraguay have paid delinquent 1981 quotas. Chile, Paraguay, Canada, Venezuela, Barbados, and Jamaica have paid 1982 quotas earlier than usual. Argentina, Mexico, Colombia, and Panama have promised to pay earlier than customary.

There has been some talk that IICA has non-quota funds, which could be used to aleviate the cash flow problem. However, 26 million of the 33 million anticipated in 1982 are restricted and require separate bank accounts. For example, funds for the African Swine Fever Program in Haiti can only be used for this program. The other 7 million are included in our cash flow account.

A reduction of quota funds which provide the core budget will reduce the availability of non-quota funds because they provide the resources of personnel and activities that attract the non-quota funds. In other words, the use of non-quota funded projects is contingent upon the availability of a core budget that is provided by the availability of quota funds. Based on past experience for every short-fall of a dollar in quota funds there is a loss of $4 in non-quota funds.

The attached cash flow charts show the dilemma IICA will be in during 1983 unless it can be excluded from the deferment:

Table 1 shows the cash flow situation for 1982 with IICA operating at 84% of authorized budget. We will pay off the loan of $3 million and interest of $322.000. The deficit remaining is about equal to the amount the United States plans to be delinquent in 1982.

Table 2 shows expected payments of quotas in 1983. Alternative I has the United States payment without deferral in the first month of each quarter, plus the 1982 delinquent amount.

Alternative II shows the United States paying its entire 1983 quota in November, but not the delinquent 1982 balance.

Table 3 shows the expected cash flow for IICA for 1983 with United States paying its quota quarterly in the first month of each quarter without deferral. This would enable us to carry out the program authorized by our Board. We would not have to borrow money during the year nor pay interest.

Table 4 shows the cash flow situation for 1983 if the United States does not make any payment until the last quarter of the year. We would have to borrow more than $2 million dollars in January to meet our costs. This borrowing would have to go up to almost $9 million dollars before the United States makes its payment. Interest payments would reach almost $700.000.

Our request is that IICA be given the same consideration that has already been given to the OAS and PAHO as members of the Inter-American System to which the United States contributes almost two thirds of the budget. A favorable consideration of this request would be appreciated.

We will be pleased to respond to any questions you may have relative to this financial problem we face.

TABLE Nº 1

CASH FLOW OF REGULAR FUNDS
1982 - IN THOUSAND OF U.S. DOLLARS
CALCULATED AT 84% LEVEL

(Revised: April 1982)

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEM.	OCTOBER	NOVEM.	DECEM.	TOTALS US$
1. Available - first of month:	275.6	28.7	387.7	12.1	46.8	28.1	17.9	31.3	12.2	(459.5)	(1.778.6)	758.1	
2. Estimated Income per month:	1.407.2	2.814.2	1.679.1	5.236.0	2.161.1	2.102.1	2.054.2	2.053.2	1.600.6	753.2	7.855.3	609.2	30.325.4
Quotas Member States	22.0	1.345.7	645.5	4.433.7	1.093.8	596.9	1.328.4	57.4	74.8	77.4	6.779.1	-.-	16.454.7
Reimbursement Extra-Quota Agreements (NOT restricted)	545.5	1.374.0	963.0	585.6	585.6	585.6	585.6	585.6	585.6	585.6	585.6	585.6	8.152.9
Self-financing operations (Cafeteria)	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0	36.0
Over-head to be received	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	67.0		733.0
Line of Credit Amer.Sec.	500.0				350.0	650.0	50.0	1.200.0	750.0				3.500.0
Transfer S.B.F.	250.0												250.0
Accounts receivable recovered	20.1	24.9	1.0	13.1	6.1		20.6	20.6	20.6	20.6	20.6	20.6	188.8
New contracts				134.0	56.0	200.0		120.0	100.0		400.0		1.010.0
3. Total Income available per month:	1.682.8	2.842.9	2.066.8	5.248.1	2.207.9	2.130.2	2.072.1	2.084.5	1.612.8	293.7	6.076.7	1.367.3	
4. Estimated expenditures per month:	1.654.1	2.455.2	2.054.7	5.201.3	2.179.8	2.112.3	2.040.8	2.072.3	2.072.3	2.072.3	5.318.6	2.176.3	31.410.0
5. Quota budget execution 1983:	1.000.0	1.045.0	1.100.0	1.100.0	1.200.0	1.250.0	1.250.0	1.250.0	1.250.0	1.250.0	1.250.0	1.250.0	14.195.0
Accounts payable	123.5	55.0		84.0	39.0							4.0	305.5
Execution Extra-Quota Agreements (NOT restricted)	350.0	630.0	500.0	585.6	585.6	585.6	585.6	585.6	585.6	585.6	585.6	585.6	6.750.4
Other payables		338.5	109.0										447.5
Self-financing operations (Cafeteria)	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	4.5	54.0
Over-head expenditures	31.2	72.7	72.7	72.7	72.7	72.7	72.7	72.7	72.7	72.7	72.7	72.7	830.9
Rotating Funds	144.9	59.5	59.5	59.5	59.5	59.5	59.5	59.5	59.5	59.5	59.5	59.5	799.4
Amortization - loans:													
Line of Credit Amer.Sec.				3.000.0							3.000.0		6.000.0
Simon Bolivar Fund		250.0	128.5	150.0	150.0	71.5							750.0
Interest payment			80.5	95.0							146.3		321.8
New contracts				50.0	68.5	68.5	68.5	100.0	100.0	100.0	200.0	200.0	955.5
6. Estimated balance at the end of each month:	28.7	387.7	12.1	46.8	28.1	17.9	31.3	12.2	(459.5)	(1.778.6)	758.1	(809.0)	

TABLE Nº 2

ESTIMATION OF QUOTA PAYMENTS BY MONTHS, FOR THE YEAR 1983

			ALTERNATIVE Nº I	ALTERNATIVE Nº II
JANUARY				
	United States of America		3,305,865	NO
		TOTAL	3,305,865	
FEBRUARY				
	Paraguay		30,986	SAME
	Canada		1,194,667	"
	Chile		141,156	"
		TOTAL	1,366,809	"
MARCH				
	Barbados		13,771	"
	Jamaica		30,986	"
	Venezuela		619,712	"
	Guatemala		30,986	"
	Haiti (82)		28,690	"
		TOTAL	724,145	"
APRIL				
	Colombia		170,420	"
	United States of America		3,129,831	NO
	Mexico (Partial)		60,000	SAME
	Argentina (50%)		643,812	"
		TOTAL	4,004,063	874,232
MAY				
	Mexico (Balance)		1,150,160	SAME
	Panama		30,986	"
		TOTAL	1,181,146	"
JUNE				
	Argentina (50%)		643,812	SAME
		TOTAL	643,812	"

		ALTERNATIVE Nº I	ALTERNATIVE Nº II
JULY			
Brazil (82)		1,495,088	SAME
United States of America		2,852,848	NO
Trinidad & Tobago		30,986	SAME
	TOTAL	4,378,922	1,526,074
AUGUST			
Uruguay		61,971	SAME
	TOTAL	61,971	"
SEPTEMBER			
Peru		92,957	SAME
	TOTAL	92,957	"
OCTOBER			
Honduras		30,986	SAME
Paraguay		30,986	"
Ecuador		30,986	"
	TOTAL	92,958	"
NOVEMBER			
United States of America		2,852,848	11,411,392
Costa Rica (82)		28,690	SAME
Guyana		24,100	"
Dominican Republic (82)		30,986	"
	TOTAL	2,936,624	11,495,168
DECEMBER			
Dominica		3,442	SAME
St. Lucia		5,164	"
	TOTAL	8,606	
GRAND TOTAL		18,797,879	18,067,878

COUNTRIES NOT INCLUDED

Bolivia, El Salvador, Grenada, Nicaragua and Suriname.

TABLE Nº 3

CASH FLOW OF REGULAR FUNDS
PROJECTED FOR 1981 IN THOUSAND OF U.S. DOLLARS
CALCULATED AT 95% LEVEL

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEM.	OCTOBER	NOVEM.	DECEM.	TOTALS US$
1. Available - first of month:	(809.0)	1.045.1	960.1	212.4	2.784.7	2.510.9	1.705.8	4.632.8	3.242.9	1.884.0	531.1	2.025.2	
2. Estimated Income per month:	3.959.8	2.020.7	1.378.0	4.658.0	1.835.0	1.297.7	5.032.8	715.9	747.0	753.0	3.601.0	677.0	26.675.9
Quotas Member States	3.305.9	1.366.8	724.1	4.004.1	1.181.1	643.8	4.378.9	62.0	93.0	93.0	2.936.6	8.6	18.797.9
Reimbursement Extra-Quota Agreements (NOT restricted)	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.4	583.4	583.4	583.4	7.000.0
Self-Financing operations (Cafeteria)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	48.0
Over-head to be received	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	72.6	77.0	81.0	830.0
Line of Credit America Security Bank													
3. Total Income available per month:	3.150.8	3.065.8	2.338.1	4.870.4	4.619.7	3.811.6	4.738.6	5.348.7	3.989.9	2.637.0	4.132.1	2.702.2	
4. Estimated expenditures per month:	2.105.7	2.105.7	2.105.7	2.105.7	2.105.8	2.105.8	2.105.8	2.105.8	2.105.9	2.105.9	2.106.9	2.106.9	25.271.6
5. Quota budget execution 1983:	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.477.3	1.477.2	17.367.5
Execution Extra-Quota Agreements (NOT restricted)	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.4	583.4	583.4	583.4	7.000.0
Self-financing operations (Cafeteria)	6.1	6.1	6.1	6.1	6.2	6.2	6.2	6.2	6.2	6.2	6.2	6.2	74.0
Over-head expenditures	69.0	69.0	69.0	69.0	69.0	69.0	69.0	69.0	69.0	69.0	70.0	70.0	830.0
Line of Credit Amer. Sec. Interest payments													
6. Estimated balance at the end of each month	1.045.1	960.1	232.4	2.784.7	2.513.9	1.705.8	4.632.8	3.242.9	1.884.0	531.1	2.025.2	595.4	

TABLE Nº 4

CASH FLOW OF REGULAR FUNDS
PROJECTED FOR 1983 IN THOUSAND OF U.S. DOLLARS
CALCULATED AT 95% LEVEL

	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEM.	OCTOBER	NOVEM.	DECEM.	TOTALS US$
1. Available - first of month:	(809.0)	(2.260.8)	(2.345.8)	(3.073.5)	(3.651.1)	(3.921.9)	(4.730.0)	(4.655.8)	(6.045.7)	(7.404.6)	(8.757.5)	617.0	
2. Estimated Income per month:	653.9	2.020.7	1.378.0	1.528.1	1.835.0	1.297.7	2.180.0	715.9	747.0	753.0	12.159.6	677.0	25.945.9
Quotas Member States	-.-	1.366.8	724.1	874.2	1.181.1	643.8	1.526.1	62.0	93.0	93.0	11.495.2	8.6	18.067.9
Reimbursement Extra-Quota Agreements (NOT restricted)	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.4	583.4	583.4	583.4	7.000.0
Self-financing operations (Cafeteria)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	48.0
Over-head to be received	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	66.6	72.6	77.0	81.0	830.0
Line of Credit Amer.Sec.													
3. Total Income available per month:	(155.1)	(240.1)	(967.8)	(1.545.4)	(1.816.1)	(2.624.2)	(2.550.0)	(3.939.9)	(5.298.7)	(6.651.6)	3.402.1	1.294.0	
4. Estimated expenditures per month:	2.105.7	2.105.7	2.105.7	2.105.7	2.105.8	2.105.8	2.105.8	2.105.8	2.105.9	2.105.9	2.785.1	2.106.8	25.949.7
5. Quota budget execution 1983:	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.3	1.447.2	17.367.5
Execution Extra-Quota Agreements (NOT restricted)	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.3	583.4	583.4	583.4	583.4	7.000.0
Self-financing operations (Cafeteria)	6.1	6.1	6.1	6.1	6.2	6.2	6.2	6.2	6.2	6.2	6.2	6.2	74.0
Over-head expenditures	69.0	69.0	69.0	69.0	69.0	69.0	69.0	69.0	69.0	69.0	70.0	70.0	830.0
Line of Credit Amer.Sec. Interest payments											678.2		678.2
6. Estimated balance at the end of each month:	(2.260.8)	(2.345.8)	(3.073.5)	(3.651.1)	(3.921.9)	(4.730.0)	(4.655.8)	(6.045.7)	(7.404.6)	(8.757.5)	617.0	(812.8)	

STATEMENT OF HOWARD B. EISENBERG, EXECUTIVE DIRECTOR, NATIONAL LEGAL AID AND DEFENDER ASSOCIATION

Mr. Chairman and members of the Subcomittee: My name is Howard Eisenberg, and I am Executive Director of the National Legal Aid and Defender Association (NLADA).

The National Legal Aid and Defender Association is the only private, non-profit organization devoting all its resources to the support and development of quality legal assistance to the poor. The Association was organized in 1911, and NLADA membership today includes approximately 2,800 legal services and public defender offices across the United States. NLADA combines the efforts of members of the private bar with those of professional legal services attorneys to provide equal access to justice for the poor. I appear before you today in support of the budget request of the Legal Services Corporation for fiscal year 1983 in the amount of $265 million.

Our concern and support for legal services for the poor has led us to appear before this Subcommittee on several occasions since the establishment of the Legal Services Corporation by Congress in 1974. At that time, Congress determined that a need existed to provide equal access to our nation's system of justice and to provide high quality legal assistance to those otherwise unable to afford adequate legal counsel, enabling poor persons to bring their grievances before judges and others empowered to hear them. This federal attempt to assure equal justice for all has resulted in implementation of a concept, that is, resolution of conflicts within the legal system, a minimum level of access to our system of justice for all members of our society, and protections for the substantive rights the poor have been granted in our society and which only legal services programs and lawyers enforce.

We believe that the Legal Services Corporation has been a most efficient and effective vehicle of providing lawyers to the poor. Programs are organized, operated, and controlled at the local level and meet the priorities in relation to the relative needs of their communities. The administration of the program has been most cost-effective as compared with other federally funded programs. In 1980, 93.4% of LSC's congressional appropriation was distributed for the direct provision of legal services; a mere 1.8% was used for central management and administration.[1]

Over the past year, NLADA and its allies have had major and well-publicized differences with some members of Congress and with the Reagan Administration over continuation of the Legal Services Corporation and federally funded legal services to the poor. We have asserted and continue to assert that legal services programs deliver essential legal services, usually in the form of individual representation in routine cases involving family, housing, income maintenance, and consumer finance problems. These services are vital to protecting the basic legal rights of the poor; an independent LSC which directly funds locally managed programs provides the most efficient and effective means of delivering necessary legal services to the poor.

Fortunately, this Committee and the Congress as a whole, along with countless others including bar association leaders, elected officials, civil and human rights advocates, church groups, and the news media have voiced opposition to both the abolition of LSC and the alternative structure suggested for legal services, that of the block grant. Further, the overwhelming support expressed for continuation of this vitally important program has revealed the widespread support of the work being carried out throughout the nation by local programs and the commitment to the concept of justice for all.

As the Committee is aware, the Legal Services Corporation received a 25% reduction in its appropriation for fiscal year 1982. It is important that the members of this Appropriation Committee focus on what this continuation of funding at the reduced level has meant to the program. The $80 million cut has resulted not only in staff reductions but most importantly, in reduced services to eligible clients by the 326 funded programs in every Congressional district in the nation.

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[1] Legal Services Corporation Annual Report, at 14 (1980).

Because of the disparity between the availability of private attorneys for those above the poverty threshold and that availability for individuals at or below the poverty level, the Corporation adopted its policy of minimum access. As defined by the Corporation, minimum access meant two attorneys for every 10,000 persons at or below the poverty line.

Since 1976, the Corporation has made significant progress in establishing minimum access and quality legal services for the nation's estimated 30 million poor. At the end of fiscal year 1980, legal services programs, at a minimum level of funding, had expanded to every area of the country, and expansion was completed. Now the Corporation, at the very moment of completion of minimum access, is no longer able to provide the equivalent of two attorneys for every 10,000 persons at or below the poverty line.

In addition, it has been necessary, as a part of the retrenchment process, to close almost 300 branch offices as a result of the drastic funding cuts. This has had a severe impact on services to eligible clients. It is estimated that perhaps as many as 600,000 fewer cases will be handled due to the office closings and staff reductions. As a consequence of the curtailment of this program, this nation's ability to fulfill its promise of equal justice for all its people has been severely impeded; many needy people have to be turned away as programs restructure priorities, restrict intake of new cases, and necessarily eliminate services within some communities. Certain types of cases are singled out for exclusion simply because there are insufficient resources and staff rather than on the merits of the claims of eligible clients. The overall effect is to deny poor people legal remedies available to others and to restrict the scope of legal representation. Some of those in greatest need of legal assistance and least able to obtain it elsewhere are being deprived of services. This problem is compounded particularly by the major changes made in the laws and regulations which either reshape or eliminate federal rights and programs for the poor. It is ironic that poor people have the most difficulty in obtaining access to our judicial system because of the high cost of representation when their need for legal counsel is most often the greatest in our society. Likewise, they are powerless to protect themselves because they often lack a clear understanding of the American legal system or their rights within it.

While we recognize the congressional need to develop anti-inflation efforts and the mounting concern among members to curb growth in federal spending, no general concern to cut the budget can justify the significant curtailment of this low cost and highly efficient program. Our system of law cannot safely tolerate less than the level of access to justice for the poor which is presently provided. Judge Learned Hand stated it aptly when he said: "If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice."[2]

Moreover, an integral part of the "safety net" for the poor is legal services which we assert must be maintained even as other social programs are eliminated or curtailed. Given these facts, it is our position that the establishment of LSC and the growth of civil legal assistance to the poor is an area of the federal budget which requires funding at levels commensurate with the needs of poor people.

Despite the increases in the budget of LSC over the past few years and recognizing the devastating cut sustained by the program during fiscal year 1982, it should be apparent to this subcommittee and to Congress that this program has been operated on an extremely economical and cost-conscious basis. We support the budget request of LSC for fiscal year 1983 in the amount of $265 million. This meager increase above the current $241 million level does one thing -- maintains the program at the current reduced operating level while reflecting the ravages of inflation on the costs of providing adequate legal services. As the Corporation has amply expressed in its budget request, the demands for legal services are enormous and the obvious costs to the poor in terms of human suffering from the denial of services is evident everywhere. Additional cuts are impossible. We hope that this subcommittee, in its close scrutiny of this program, is aware of these exigencies.

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[2] Hand, "Thou Shalt Not Ration Justice," Address before the Legal Aid Society of New York, reprinted in 9 Legal Aid Briefcase No.4, at 3, 5 (April 1957).

In addition, as a matter of principle, our association opposes any limitations on the representation of eligible clients by staff attorneys and hopes that this subcommittee will oppose efforts to restrict representation of eligible clients. Poor people should have access to legal representation regardless of the nature of their legal problems, and local legal services programs should establish priorities for the allocation of monies to their programs based on local needs. In the past, the appropriations legislation has contained riders which prohibit legal services programs from undertaking any activity on behalf of particular classes of persons. These restrictions are inconsistent with the Corporation's mandate to provide equal access to our system of justice for persons unable to afford an attorney.

Finally, we support the notion that the private bar can and should be involved in the delivery of legal services to the poor. This can be accomplished through pro bono services and some compensated models at reduced fees. The simple fact remains, however, that even assuming a continued growth of pro bono services by members of the private bar, such services cannot begin to meet even a small fraction of the legal needs of poor. By the same token, many lawyers cannot afford to represent the poor gratis and many others evince little interest in representing the poor. It is therefore wholly unrealistic to expect that the organized bar will "take up the slack" created by the reduction in federally funded legal services. It is, therefore, incumbent upon the federal government to be the primary source of funds for legal services to the poor. State and local governments are unable to meet this need given the competing demands for social services at the local level. In other words, adequate federal funding guaranteeing access by poor people to our legal system is essential and is well within the role of the federal government to ensure that the indigent enjoy citizenship and protection of their rights.

Expansion of legal services to the poor has been accompanied by expectations of the client community -- expectations that there is access to our legal system, enforcement of their legal rights, and equal justice under law. While we may not be able to fully meet all these expectations, let us not undercut the concept that justice in this nation is not only for those who can afford to pay.

NLADA urges your support for a fiscal year 1983 appropriation to the Legal Services Corporation in the amount of $265 million.

STATEMENT OF ANNIE SMART, ALLIANCE FOR LEGAL RIGHTS, INC.

Mr. Chairman and Members of the Subcommittee, I am Annie Smart from Baton Rouge, Louisiana. I appreciate this opportunity to testify on the Legal Services Corporation 1983 budget request as both a client of the legal services program and a member of the Alliance for Legal Rights.

The Alliance for Legal Rights is a national organization of clients of legal services -- those who actually need and use the services and who cannot afford the costs of paying for legal assistance. The Alliance was formed last year, when it became clear that the Reagan Administration was determined to abolish legal assistance for poor people. Since its incorporation, the Alliance has attracted a following of over 600 legal services clients across the country who have since established contacts with organizations in their communities, their Members of Congress, the media, and others to explain the vital need to continue the federally-funded legal services program.

In 1980, LSC was able to fund 323 legal services programs. These programs served an estimated 1.5 million people who would otherwise not be able to afford lawyers to help them with their problems. While, at first glance, this may appear to satisfy legal assistance needs for the poor, in fact, it does not. There are 30 million poor people in America, and a recent study concluded that in any given year, about 23% of them are faced with a legal problem. Obviously, not all of these 6.9 million poor people may even know of the availability of free legal services, but the fact remains that the demand for legal services is enormous.

The ability of poor people to receive legal help has been severely curtailed through the continuing resolution which has reduced funds available to the Legal Services Corporation by 25% for this fiscal year. Considering inflationary factors, the legal services program is probably operating nationally at 60% of 1981 level; and potentially 600,000 fewer cases will be handled this year.

What clients have seen so far this year has been extremely unsettling. In many cases, legal services offices conveniently located in communities have been forced to close, requiring clients to assume additional transportation expenses to get to those offices which remain open. In other instances, legal services attorneys who would ideally serve all applicants for assistance have been forced to turn away poor people whose problems do not constitute dire emergencies; and in still other instances, the backlog of unfinished cases is so tremendous that offices are not accepting any new cases at all.

Legal services clients are beset by an array of housing, consumer, domestic and other problems which, if not promptly resolved, could produce further economic and social strife, often leading to devastation of family units. It is unthinkable that poor people in this country are consigned to such misery solely because the national legal services program has been grossly underfunded.

There has been much recent discussion surrounding the involvement of private lawyers and bar associations in the delivery of legal services to poor people, and specific efforts have been made to introduce these attorneys to the range of delivery models which might be used in a given community. While we encourage private attorneys to provide the help we need, the reality of the situation is that there is a vacuum which needs to be filled right now. We cannot wait for two or three years until these private bar programs are fully operational, particularly when, based upon what we know now, only 10% of the private attorneys in this country could be expected to participate. Again, we cannot conceive of the private bar as a real resource in some of our rural communities where private lawyers are in such short supply that often the legal services programs are themselves the largest law firms.

Since the national legal services program was begun in 1965, many of us have truly come to believe that our grievances can be resolved through the judicial system and that the words "equal justice" do have meaning. We know that during these years legal services has been the subject of considerable controversy. Everything that legal sevices lawyers do is not appreciated by everyone. We trust, however, that the appropriations process will not be used as a means of resolving what some people may feel are weaknesses in the legal services program. The only purpose that serves is to make poor people suffer more.

In summary, the Alliance for Legal Rights urges this Subcommittee to act favorably upon the Legal Services Corporation's budget request of $265 million. It is such a small price to pay to assure equal justice.

We thank you for this opportunity to present our views.

STATEMENT OF THE AMERICAN COUNCIL OF INDEPENDENT LABORATORIES

The American Council of Independent Laboratories (ACIL) is the association of independent testing laboratories. Its members provide research, testing and analytical services in a wide range of disciplines to clients in industry, government and commerce. For more than 40 years, ACIL has represented the interests of independent testing laboratories and addressed laboratory issues of a broader nature.

It should be noted that in the following statement ACIL is speaking not only in behalf of its 250 members (most of whom are engaged in other fields of testing), but also in behalf of the majority of the small independent laboratories that are engaged in FCC/EMI testing. A meeting of these laboratories was held recently under the sponsorship of ACIL. All in attendance agreed on the position expressed in this statement.

Our concern is a laboratory matter in connection with the FY 83 appropriations for the Federal Communications Commission. It is our understanding that the proposed FCC budget for FY 83 includes little if any funding for the FCC laboratory in Laurel, Maryland. We believe this to be a serious mistake, because elimination of the FCC laboratory will have significant negative results. Our reasons for this conclusion are set forth in the following paragraphs.

THE FCC LABORATORY FACILITY

A key element in the FCC control over electromagnetic interference is its laboratory facility. Since 1940, the FCC has had a laboratory facility on the 200 acres of Commission-owned land shared with the FCC monitoring station at Laurel, Maryland. Successive expansions were made in 1948, 1955 and 1975. The final facility is a modern 20,000 square foot facility having an original cost of $1,000,000 and now probably having a $3,000,000 replacement cost. Within the facility are several large fully-shielded rooms to permit low level radio frequency measurement without the effects of ambient interference, temperature simulation equipment, computers and an estimated $2,000,000 in electronic test equipment. This laboratory serves as a model for laboratories established or under development throughout the world. There can be no doubt that the prestige of the United States is enhanced through the frequent visits by foreign telecommunications regulators and engineers.

The functions of the Laboratory fall into three basic categories:

1. Technical information and advice are provided to the Commission to assist it in reaching decisions concerning such matters as selection of systems (for example, stereo broadcast transmission systems), frequency assignment plans, and development of technical standards for equipment.
2. Technical information and advice are provided to the private sector, including manufacturers and testing laboratories. This assistance consists of the generation, approval and interpretation of test procedures and methods as they relate to the Commission's rules and regulations.
3. Maintenance of the Commission's standards of measurement, traceable to the National Bureau of Standards; calibration and maintenance of test equipment used by the Laboratory and the Commission's Field Operations Bureau.

IMPLICATIONS

A. Laboratory Closing. Closing of the Laurel Laboratory Facility will:

1. Remove a source of objective evaluation of telecommunications equipment and engineering support for the Commission's rule-making staff;
2. Virtually stop pre-grant equipment spot-checks and data auditing and severly limit post-marketing equipment audits;
3. Dissipate a group of experienced engineers and technicians uniquely qualified in the measurement of electromagnetic interference sources;
4. Result in gradual deterioration of millions of dollars in U. S. assets invested in the building and its equipment;
5. Squander decades of experience by engineers and staff now performing the Certification, Type Acceptance and Type Approval reviews;
6. Eliminate support services (equipment maintenance and claibration) for the field operations activity, which currently amounts to approximately 65% of the instrumentation group's work; and

7. Place the burden of interpretation of FCC regulations regarding equipment test procedures and methods on the private sector. The great danger is that, in the process, the uniformity and consistency presently guaranteed by the FCC laboratory will be lost.

ACIL'S RECOMMENDATION

In light of the above, ACIL strongly recommends that, within the FY 83 appropriations for the Federal Communications Commission, sufficient funds be alloted for maintenance of a core capability at the FCC laboratory. We do not argue the fact that budget cutbacks are inevitable and necessary. Nevertheless, it is possible to ensure that the FCC laboratory will sustain more than its pro rata share of this cutback and continue to perform its vital role.

Specifically, it is our considered opinion that the FCC laboratory staff can be cut by more than 50 per cent, from 36 to 16. The reduced staff should consist of 8 engineers, 3 application reviewers, 2 technicians, 1 clerk typist, 1 computer science professional and 1 janitor.

This staff of 16 represents a bare minimum for the effective operation of the FCC laboratory.

CONCLUSION

ACIL hopes that the Appropriations Subcommittee will take steps to preserve a core capability at the FCC laboratory in FY 83 and beyond. We are convinced that the relatively few dollars this will require will reap significant benefits for government, industry and the general public.

Thank you for this opportunity to present our views.

STATEMENT OF CHARLES H. DORSEY, JR., CHAIRPERSON, PROJECT ADVISORY GROUP, THE NATIONAL ORGANIZATION OF LEGAL SERVICES PROGRAMS

Budget Request by the Project Advisory Group for Funding for the Legal Services Corporation for FY 1983

On behalf of the more than 300 local programs providing civil legal representation to a client population of 40,000,000 poor people, the Project Advisory Group joins in the request of the Legal Services Corporation for an appropriation of $265 million for FY 1983.

Low-income people are especially vulnerable to injury in our legal system. Their annual incomes are below subsistence levels and obviously not sufficient to retain private counsel. Yet so much of poor people's lives is regulated by law, so much of their victimization occurs through the very legal processes which Congress and other governmental bodies have established:

--the wage earner who becomes ill and does not get proper treatment because the local hospital denies admission in violation of the Hill-Burton Act;

--repossession of the family car, which is needed to hold a job, when a payment is missed due to illness and the finance and insurance companies refuse to honor the credit insurance;

--employment discrimination against the wage earner, a black, when he is fired for tardiness due to the lack of transportation while whites with the same problem are kept on;

--denial of unemployment compensation when the employer claims a firing for cause;

--unlawful failure of the Department of Social Services to timely act on the family's application for Aid to Families with Dependent Children;

--cutoff of electricity when the bill cannot be paid despite the moratorium on winter cutoffs imposed by the Utilities Commission;

--breakup of the family when the Department of Social Services takes custody of the children because they are living in an unheated house.

Our clients daily face loss of income, loss of jobs, loss of health, loss of shelter, loss of children, loss of an education, loss of possessions, loss of civil rights, loss of their dignity and self-respect--at the hands of people and institutions and government agencies purporting to act under the law but who in fact deprive our clients of their legal rights. What good are laws when the person whose rights are at stake has no access to our legal system to enforce the right or remedy the wrong?

Attorneys and paralegals of Legal Services programs funded by the Legal Services Corporation are repeatedly the only persons who stand between poor people and disaster for themselves and their families. If there is a "safety net" of economic programs for poor people, Legal Services is the "safety net of the safety net". We provide basic protection by enforcing the law where our clients' rights are violated, by representing our clients' interests in obtaining changes in the law where its effect is unjust, and by teaching poor people their legal rights and responsiblities so that they can help to prevent injury to themselves.[1]

The $265 million will enable Legal Services attorneys and paralegals to continue to provide the basic protections of Equal Justice for another year.

The Unmet Need

Even at an appropriation of $265 million, many, many poor people will slip through the gaping holes in the legal safety net and suffer irreparable damage. Analyses by the National Social Science and Law Project suggest that every low-income household experiences at least two or more serious legal problems each year.[2] Even if every cent could be spent on direct legal assistance, $265 million is merely $6.63 per year per eligible client to meet all their legal needs, less than what most non-poor families will spend on their dinner tonight.

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[1] See Appendix A, "Contributions of Legal Services to American Society".

A $265 million appropriation falls far short of the modest short-term Congressional goal for LSC of "minimum access": providing the equivalent of two lawyers for every 10,000 poor persons nationwide. "Minimum access" was but a step in fulfilling the Congressional mandate in the Legal Services Corporation Act of assuring "equal access to the system of justice in our Nation for individuals who seek redress of grievances."[3] Contrast that goal with the 20 lawyers per 10,000 persons who serve the Nation's population as a whole, or the 28 lawyers per 10,000 non-poor persons. By 1981, six years after embarking on the task, Congress had appropriated funds which finally enabled coverage of every county in the United States by a local Legal Services program. But by then inflation had drastically eroded the per-attorney-unit cost of $35,000 with which the quest began in FY '76. And so even this short-term effort to reach minimun access was never fully realized. The longer term goal of four lawyers for every 10,000 poor persons never was begun.

Just as the immediate objective of minimum access was within our clients' grasp, Legal Services began to be partially dismantled when funding regressed by the 25% reduction in the LSC appropriation for 1982.

The LSC reduction for 1982 may have been our necessary fair share of the general need for budget cuts to curtail inflation. But that reduction has had the practical effect of denying justice to many thousands of low-income people. While the resources available for meeting the legal needs of the poor diminished, the needs themselves increased sharply under the combined toll of high unemployment, the high cost of living, and an economic recovery program that stripped the poor of public assistance. Other persons of moderate income became client-eligible and sought our services as they began to suffer the adverse impact of the economy. A cruelly severe winter compounded the devastation. As other persons higher up the economic ladder began to suffer financially, they invoked their status as landlords, lenders, employers and bureaucrats to shift their economic losses, often through the legal process, onto the poor and near poor, thereby increasing both the demand on our resources and the legal needs which remain unmet.[4]

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[2] See Appendix B, "The Unmet Legal Needs of Poor People".

[3] See Appendix C, "History of Funding of the Legal Services Corporation".

A typical example is the 40 year old white man in Raleigh, N.C. who was recently terminated from his $14,000 a year job. The employer then sought to deny the man any unemployment compensation by raising technical objections under the law. The only place the man could turn to for help was Legal Services.

Our request is for $265 million, an increase of $24 million. We understand the pressures that will be exerted to maintain the Legal Services Corporation at its present appropriation level. But Equal Justice is not an abstraction. It is a real-life principle which requires, for its practical fulfillment, the commitment of legal resources adequate to the representational task. If Legal Services only remains at $241 million, the net impact will be disastrous for the legal rights of poor people. This will result in 533 fewer attorneys*, each of whom could have handled an average 300 clients.** Thus 159,900 families, approximately 639,600 poor people, will suffer hardship and injustice as the result of maintaining the appropriation at the status quo rather than increasing it to $265 million.

The Proposed Alternatives to the Legal Services Corporation

The Administration proposes to eliminate Legal Services, contending that (a) states can continue to provide such services from block grant funds if they choose, and (b) the legal needs of poor people can be met by free representation from private attorneys. Neither argument is supported by the facts or past experience. Moreover, it would mean the end of a unique and vastly effective experiment in participatory democracy-- the establishment by the federal government of a national corporation that places accountability for the provision of services directly into the hands of local programs run by local citizens.

(a) State funding--States have had a very poor record of committing funds to legal services for low-income people even when the states had money for that purpose. Title XX of the Social Security Act and Title III of the Older Americans Act are two recent instances. One can imagine how inadequate would be that commitment under the proposed block grants--not only are there no block grant moneys earmarked for legal services, but the states must make up for the expected loss of billions of dollars in federal funding of assistance programs for poor persons.

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4. See Appendix D, "Impact of the Reduction in Funding in 1982 of the Legal Services Corporation".

* See text p.4. We calculated that $24 million was the equivalent of 533 attorneys because the present cost of an attorney unit is at least $45,000, probably more. By unit cost we mean not only the attorney's salary and fringe benefits but the cost of needed support staff, overhead, training, litigation expenses, etc. The average attorney's salary, in fact, is less than half the unit cost, given the low salaries throughout Legal Services. A specific itemization will be provided upon request.

** See text p.4. For the sake of convenience, caseload has been expressed in terms of the average number of clients per attorney. As a practical matter, of course, client assistance is provided by each Legal Services program as a whole, including paralegals, intake specialists, community educators and sometimes social workers as well as lawyers.

Many other serious problems would follow from the transfer of responsibility to the states for the provision of legal services to poor people:

-- access to the legal system would be an accident of place of residence wholly inconsistent with the national principle of Equal Justice.

-- states would have an inherent conflict of interest since the unlawful conduct of their own agencies frequently necessitates the intervention of Legal Services attorneys.

-- cost-effectiveness, one of the outstanding characteristics of the Legal Services Corporation, would be decimated by the need to establish 50 state administrative bureaucracies to replace the proven and efficient apparatus of LSC.

-- decentralization to 50 states would make effective Congressional oversight almost impossible, another consequence contrary to the national commitment.

-- local control and accountability, another hallmark feature of Legal Services under the Corporation, might be eliminated. LSC requires that each local program be run by a Board of Directors comprised of 60% lawyers and 1/3 clients from the area served. Block grants would take control out of the local communities and give it to the states.

-- State control has been damaging to the full and zealous representation of clients in various places in the past.

(2) Private attorneys--Equal justice is a fundamental principle of this Nation which, similar to national defense, depends for its attainment on the commitment of the federal government. Private attorneys, of course, should devote some of their time to *pro bono* assistance to poor people, but justice for all citizens is an obligation not of a single profession but of all our society.

Private attorneys can expand and enhance the delivery of legal services to poor people, but they cannot replace full time, permanent staff lawyers.5 That was the conclusion reached by the delivery systems study undertaken at the behest of Congress; it was the conclusion voiced last September by William Reece Smith, Jr., immediate past president of the American Bar Association:

> "After engaging in *pro bono* work for some 25 years, I am still convinced we *cannot* do a decent job nationally without the combination of federally funded civil legal services programs and the additional organized efforts of the private bar. The federal programs provide a national network of legal aid offices which ... provide a manpower and an administrative base which is essential to an effective delivery program. 75 years of experience taught that the private bar lacked the resources needed to provide the network and the base that are imperative."

The occasional *pro bono* case that each private attorney would handle along with his/her regular law practice would not provide the opportunity to develop expertise in many often complex and highly regulated areas of proverty law. Nor would

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5. See Appendix E, "The Value of and the Limitations on the Role of Private Attorneys in Representing Poor People".

such episodic experience enabnle the private attorney to identify patterns of wrong-doing and repetitive violators or be able to implement stràtegies that lead to changes in the underlying legal cause. Private lawyers can, however, effectively complement the services rendered by full-time poverty law professionals.

Voluntary legal aid programs relying on private attorneys were the way in which this country attempted to respond to the legal needs of poor people from 1876 until 1964. That method proved inherently inadequate and left free legal assistance for the poor "unknown in most of the country," according to William McCalpin, Ex-Chairman of the LSC Board and secretary of the ABA. It was precisely in reaction to that vacuum that the national Legal Services program was begun in the first place. Are we now to return to that era of unmet need and unfilfilled commitment?

National Support for Legal Services

This program of legal services for poor people is only 3/100 of 1% of the federal budget, a miniscule amount. That such a small program could generate so much controversy may be a reflection on the adversarial nature of our legal system; that it has brought such a broad outpouring of support from the Bar, the media and the general public is a remarkable tribute to the program's effectiveness. About 400 state and local bar associations, several hundred judges, scores of newspapers big and small, and countless public officials have publicly sought the continuation of the Legal Services Corporation. A New York Times/CBS Poll showed that approximately 80% of all those surveyed felt that Legal Services should be maintained at $321 million or expanded.6

That high level of public acceptance and support reflects the fact that Legal Services works. Legal Services provides meaningful access to the legal system for poor people, prevents serious economic injury, defines the legal rights of the poor in specific areas of law, achieves badly needed legal reforms (e.g., the requirement that leased housing be fit to live in), and develops on the part of low-income persons a sense of trust in our system of justice. Among the most important believers in Legal Services is our client community who resolve to work within our systems to solve their problems.

Besides being effective, Legal Services is cost-efficient. A remarkably low 1.9% of LSC's 1982 funding is being spent on the central management and administration of this program. Legal Services is also cost effective in our ability often to apply the benefits of the given case to other persons experiencing the same problem. E.g., persuading agencies to alter unjust practices or policies, educating our client communities to changes in the law, establishing judicial precedents, acquainting judges and administrative hearing officers with the issues and legal consequences of unlawful conduct which commonly injures poor people.

Conclusion

It is ironic that the federal government is presently contemplating a "Caribbean program" of $350 million (about 50% more than goes to the Legal Services Corporation) in aid to 22,700,000 people (about one-half of the number of poor persons in the U.S. eligible for Legal Services) living in Belize, Costa Rica, Dominican Republic, El Salvador, Haiti, Honduras and Jamaica. However meritorious that and other federal projects may be, how can we justify anything less than full access to our system of

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6. See Appendix F, "A Summary of Public Support for Continued Funding of the Legal Services Corporation".

justice for the 35,000,000 poor people in this nation who go without Equal Justice because the Legal Services Corporation has not been given the funds to serve them.

Lewis Powell, now Associate Justice of the United States Supreme Court, gave substance to the meaning of Equal Justice in 1964 when, as President of the American Bar Association, he said:

> "Equal justice under law is not merely a caption on tha facade of the Supreme Court building. It is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists. ...It is fundamental that justice should be the same, in substance and availability, without regard to economic status."

Such rhetoric is inspiring and worthwhile in giving expression to an essential concept of this nation, but the words are meaningless without the money appropriated by this Congress to make access to the legal system a reality for those who are "otherwise unable to afford adequate legal counsel". When Congress wrote that idea into our laws in 1974 with the passage of the Legal Services Corporation Act, you began a journey whose destination has not yet been reached. Significant funding of the Legal Services Corporation for 1983 is imperative to this Nation's continuation of its quest for Equal Justice.

App. A to PAG 1983 Budget Request for the LSC
Contributions of Legal Services to American Society

Access to the legal system is an inherent right of every American whether rich or poor.

Political liberty encompasses the right and ability to utilize the legal system. Every citizen has the responsibility of living within the legal system. To insist on that responsibility requires that; conversely, every citizen has the right to utilize the system. For the system to be used effectively, it must be perceived by the individual as being just and, therefore, worthy of respect.

Because of the complexities of our legal system, in most instances a person cannot be adequately heard without the representation of a lawyer. This is even more true of the poor who most often lack the education or experience to represent themselves. If they are to be included within the system and to learn respect for it, poor people must be provided representation.

Thus establishing and maintaining respect for the law is a vital role of Legal Services. As Congress declared in the Legal Services Corporation Act, "for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws."

This imperative of representation goes to the very foundation of our system of justice which Congress has recognized. In its judgment "equal access to the system of justice in our Nation" must be provided to all individuals. If liberty means anything, it means that. In a society governed by law, all citizens regardless of wealth must be allowed to have access to the legal system if the system is to have meaning.

Each year Congress and the legislatures of the states spend billions of dollars enacting laws affecting the poor. Legal services attorneys have played an important role in interpreting theselaws and in helping the poor to insure the implementation of the intent of Congress. On a nationwide scale the Constitional principles of equal protection and due process of the law were aggressively and effectively utilized by Legal Services lawyers to protect poor people in civil matters.

In countless numbers of cases, officials have been stopped from acting arbitrarily in the administration of the large number of public benefit and income maintenance programs which provide critically needed money, health care, housing and food to the poor. Over the years, the efforts of Legal Services lawyers on behalf of their clients have resulted in the detailed definition for the first time of the legal rights of the poor in specific areas such as Social Security disability, Supplemental Security Income (SSI), AFDC, food stamps, medicaid, medicare, unemployment insurance, employment, consumer, landlord-tenant, mental health, and housing law, and the law pertaining to migrants, juveniles, Native Americans and the handicapped. Also, Legal Services lawyers and clients have supported the passage by state and local legislative bodies of laws which have provided increased protection to or fairer treatment of the poor. Two notable examples are the passage by a number of states of laws which require landlords to warrant that leased homes and apartments are clean, safe and habitable (warranty of habitability laws) and bar landlords from evicting tenants who report code violations to authorities (retaliatory eviction laws). It is obvious that such examples extend the benefits of the law to non-poor persons as well.

The adverse impact of lack of legal representation is evident. A report of the Committee on Legal Assistance of the Association of the Bar of the City of New York noted that tenants who were represented won twice as often as others. Legal Services offers poor people an opportunity to seek redress of just grievances against oppressive, unlawful or unfair public and private individuals and institutions. We offer poor people a way to solve their problems within the system and to learn that the law can work for them, not just against them.

Appendix B to PAG 1983 Budget Request for the LSC

The Unmet Legal Needs of Poor People

In recent years several studies have been made of the incidence of civil legal problems among poor people. The six such studies which aimed at comprehensive identification of civil legal problems--Boston; North Carolina; Virginia; Western Kentucky; Jacksonville, Florida; and Providence, Rhode Island--revealed 2.3 legal problems per household per year.

Based on an estimated 15,048,000 families and unrelated individuals below 125% of the poverty line, an incidence of 2.3 problems per household is over 34,000,000 legal problems annually among the nation's poor. That is a staggering figure though not terribly surprising to people familiar with the pervasiveness of legal regulation and victimization of poor people.

It is nevertheless possible the total is a conservative one because many poor people who in fact have legal problems probably do not perceive the problem as having a solution under our legal system.

The one national study of the legal needs of the general population, completed in 1974 by the American Bar Association/American Bar Foundation, showed that about 23% of all persons had at least one legal problem per year. The list of legal problems used in this survey falls far short of the comprehensive scope of legal problems that impact on poor people. Even so, the same 23% incidence among the nation's 40,000,000 low-income persons would result in 9,200,000 legal problems each year, about 6 times the number which present funding of Legal Services enables us to handle.

Appendix C to PAG 1983 Budget Request for the LSC

History of Funding of the Legal Services Corporation

The need for legal services for the poor was first formally recognized in the late 19th century with the founding of private Legal Aid programs. By the mid 1960's, the privately funded Legal Aid movement in the United States was swamped by an overload of clients and inadequate supply of funds. In 1964, an inadequate estimated $4 million was spent to provide civil legal services to indigents through approximately 150 private Legal Aid societies employing 600 lawyers. (Less than .2% of the sum spent generally for legal advice and representation at the time.)

In 1965 the federal obligation to provide legal services was recognized and funds from the Office of Economic Opportunity (OEO) were provided to expand the provision of legal services to America's poor. By 1968 approximately $70 million was allocated to legal services providing 250 programs and 1800 lawyers. Unfortunately, funding remained at that level until 1975.

In 1974 Congress established the Legal Services Corporation with the responsibility of supporting "high quality legal assistance to those who would be otherwise unable to afford adequate counsel."

When the Legal Services Corporation assumed control over the Legal Services Program of CSA (previously OEO), existing legal services programs had been crippled by a budget that had, in the face of high unemployment and record inflation, not been increased in five years. Inflation during that period increased costs by 30.8 percent, resulting in an effective cutback of legal services of about the same percentage. The effect was seriously detrimental: nearly one-third of the more than 900 Legal Services offices were closed. The programs were providing high quality legal services under the most discouraging conditions. Offices were understaffed, ill equipped and staff salaries were drastically below comparable salaries within the community. Their assistance to the eligible poor in many areas was nominal at best.

In addition, vast areas of the country (12 million or 30 % of the Nation's poor), especially in the South, Southwest and Midwest, had no services available at all.[1] Even in the parts of the country where legal services was the strongest, there were serious gaps in service.

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[1] Although the Corporation's mandate was to serve those "unable to afford legal assistance", the unserved need was so great that LSC by regulation limited programs to serving people at 125% of the poverty level set by the Office of Management and Budget and allowed programs to set lower eligibility guidelines. For allocation purposes, and for budget requests to Congress, LSC used 1970 Census figures at the OMB poverty level which is, of course, substantially below the 125% level. There were approximately 30 million persons governmentally defined as poor by the 1970 Census and another 10 million--40 million persons in all--who came within the LSC eligibility guidelines.

The Legal Services Corporation adopted a two phase plan to meet the legal services needs of the poor and to provide relative access to those services throughout the country. The plan included an intermediate stop-gap goal and a long-term goal.

Experience in the field at the time had demonstrated that legal services by the equivalent of at least four attorneys are required to meet the minimum needs for legal care of 10,000 poor people. (By contrast, 20 lawyers per 10,000 persons serve the Nation's population as a whole.) Even at this level of service, restrictions on caseload would be necessary, requiring priorization of the types of cases which could be served to those areas of major importance to the poor. More recent surveys in various parts of the country indicate that every poor person has one or more legal problems of consequence each year. A goal of four attorneys per 10,000 was set as the Legal Services Corporation's intermediate goal.

In order to meet its first objective of insuring access to some legal services throughout the country, the Legal Services Corporation's first step was to establish a short-term goal. Every person whose income, according to the 1970 census, was below the federal poverty level was to have at least minimum "access" to a free lawyer. The short-term goal was to provide the equivalent of at least two lawyers per 10,000 poor persons nationwide, an absolute minimum consistent with the Corporation's Congressional mandate to provide "equal access" to all individuals. At 1975 cost in an average program (which at that time was severely underfunded with depressed salaries) the cost per attorney (including an attorney's salary and prorated costs of rent, utilities, support staff salary) was $35,000 or $7 per poor person (2 attorneys at $35,000 = $70,000 divided by 10,000 poor people = $7.00).

Between the years 1976 - 1981 Congress endorsed the minimum access plan stating that increased funds which were appropriated would: ". . . enable the Corporation to make significant progress toward providing minimum access to legal services to all poor people in the Nation." By 1981 Congress completed expansion of minimum access under the short-term goal set forth by the Corporation, providing for more than 5,000 attorneys and 2,500 paralegals serving clients from 1,200 offices. Funding for Legal Services rose from $71.5 million to $321 million, demonstrating Congress' commitment to "Equal Justice Under Law".

Most of these increases went to expanding services to reach minimum access. Existing programs received minimal adjustments that did not begin to match the rate of inflation they were encountering, let alone to raise their funding levels to an amount sufficient to allow for salaries competitive with the public sector. Between 1971 and 1975 programs received no increase. In 1976, these programs' funding was increased by 10%, a portion included to off set part of the drastic reductions experienced between 1971-1975, while inflation was 4.8%. In 1977 programs received a 5.5% increase, inflation was 6.8%; 1978 a 5% increase, inflation was 9.0%; 1979 a 5.5%, inflation was 13.3%; 1980 a 5% increase, inflation was 12.4%; and 1981 a 6% increase, inflation was 8.9%.[2]

While the short-term goal of minimum access with all its weaknesses was reached in 1981, even then it was recognized that this could only be a first step toward assuring equal access. Unfortunately, now much of the achievement toward this goal has been lost. Funding for legal services was reduced 25% in 1982, which, coupled with the increased demand for service due to the severe economic plight of the poor and the rising unemployment rate, has resulted in the unavailability of services to a significant number of the poor, leaving them again without access to the legal system. Although valiant efforts have been made by programs to meet the increased demand and by the private bar to fill the gap, the resources are not sufficient to begin to meet the need.

Appendix D to PAG 1983 Budget Request for the LSC

Impact of the Reduction in Funding in 1982 of the Legal Services Corporation

As a result of the loss of $80,000,000 in 1982 in Congressional appropriations--25% of its funding--the Legal Services Corporation's grantees have had to close more than 260 neighborhood or area field offices and about 1,600 lawyers and more than 1,000 paralegals have been laid off. Thus some 480,000 low-income families have been deprived of assistance because of the loss of resources.

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[2] Thus from 1976 through 1981 Legal Services programs received so-called cost-of-living increases totaling 37% while the actual cost of living was rising 55.2%.

Consider the specific consequences around the United States:

--Northwestern Legal Services in Erie, Pennsylvania laid off 14 staff members, reducing staff size from 39 to 25.

--Kansas Legal Services laid off 20 attorney staff members on January 1, and began reducing caseload from 75 cases per attorney to 25 cases each (for the 35 remaining attorneys). The program serves the entire state but had to close 7 of 17 offices.

--Legal Aid Bureau of Southwestern Michigan reduced its attorney staff size from 10 to 4 and its staff of paralegals and secretaries from 22 to 11. The reduction in staff will result in acceptance of 1,600 - 2,000 fewer cases.

--Inland County Legal Services which serves poor people in California's Riverside and San Bernardino counties has reduced its staff by 25% and has placed a freeze on the taking of new cases.

--Northern California Legal Services, serving a 17-county area, closed one office and reduced its attorney staff from 19 to 12 to handle 7,500 cases annually.

--El Paso Legal Aid Program cut its attorney staff 50% from 14 to 7 and expects to reduce the number of cases handled (over 4,000 in 1981) by the same amount.

--The Legal Aid Society of Charleston, West Virginia, has reduced its attorney staff from 10 to 4 which leaves only one attorney for each of the four counties served by the program.

--Muncie, Marion and Anderson, three towns in Indiana, were among the seven cities in the nation with the highest unemployment rate and Legal Services had to close its offices in two of those cities.

--In Washington state, 8 out of 27 offices were shut down.

--South Central Connecticut Legal Services in New Haven says it will turn away about 10,000 eligible clients this year because of staff reductions.

- --San Francisco Neighborhood Legal Assistance Foundation has closed three neighborhood offices and reduced its attorney staff from 43 to 17. The program handled 15,000 clients in 1981 and expects to have to refer thousands of cases to private lawyers this year or let many people go unrepresented.
- --The Los Angeles Legal Aid Foundation which averages about 25,000 requests for assistance annually from qualified clients, opened only 830 cases during the last half of 1981--down from 2,204 during the same period in 1980. Since last September it has closed 8 of its 16 offices and reduced its attorney staff from 45 to 27.
- --The Legal Assistance Foundation of Chicago has reduced its attorney staff from 100 to 70 to handle an estimated 30,000 clients.
- --In Hartford County, Maryland, the number of cases handled by Legal Aid lawyers increased from 753 cases and 2,400 referrals in 1980 to 989 cases and 9,500 referrals last year. Now that increase will have to be undone. The Maryland Legal Aid Bureau has 1,200 domestic cases waiting to be worked on.
- --West Virginia Legal Services stopped seeing new clients (other than extreme emergencies) for the last half of 1981.

Appendix E to PAG 1983 Budget Request for the LSC

The Value of and the Limitations on the Role of Private Attorneys in Representing Poor People

Even if everyone of this nation's approximately 500,000 lawyers took two pro bono cases each year of low-income clients, they would still fall short by about half a million cases of providing the representation which Legal Services programs provide each year. But, of course, a great many lawyers would take no pro bono cases for various reasons. E.g.:

- --For the thousands of lawyers who work on the staffs of Corporations or government agencies, there is little access to poor people and a frequent potential for conflict of interest.

--Most lawyers are busy making a living. Recent figures indicate that the average attorney in the U. S. has an estimated annual income of $35,000 per year, so there are obviously a large number who earn well below that amount.

--The pro bono experience to date of Legal Services programs nationwide reflects the fact that as the economy worsens, willingness of private lawyers to make pro bono contributions decreases commensurately. With fewer paying clients and others defaulting on their bills, attorneys in small and solo practices are less able to donate their time.

--Much of poverty law practice is complex, even Byzantine, in its need to master torturous government regulation of the consumer, medical, housing, public assistance or other field. There is little or no incentive for the typical private attorney to master those complexities, inasmuch as his low-income clients won't be able to pay him and his regular clients have no need for such services.

--If the private attorney is paid by the Legal Services program for his time spent in mastering a field of law which will be applied to only a few clients a year, it is hardly a cost-effective use of federal funds and replicates the expertise already developed by the Legal Services program.

These pragmatic obstacles lead to the inexorable conclusion that the Reagan Administration's proposal to abolish the Legal Services Corporation and provide civil legal services to the poor through the uncompensated representation of private lawyers is wishful thinking.

Leaders of the private Bar know this full well.

Myron E. LaRowe, President of the State Bar of Wisconsin, in remarks delivered at the NLADA National Conference, December 17, 1981, said:

> "I think you will agree that the past history of local pro bono efforts unsupported by professional paid staff shows that even the best intended volunteers are not adequate to take up the task (of providing legal assistance to the poor) without some help."

Mr. LaRowe went on to note that realistically, there just aren't enough private lawyers available and willing to volunteer their services, to even come close to adequately meeting the need which exists among the nation's 30 million poor. He cited his own state of Wisconsin as an example:

> "And I say that the volunteers are few and that there are not enough. To give you one graphic example of that, if every lawyer in Wisconsin handled two pro bono cases per year, which is a totally unrealistic expectation, it would still not handle the present caseload of the Legal Services Corporation programs in my state. And that is if everybody agreed to handle just two pro bono cases per year."

Franklin Jones, Jr., then President of the State Bar of Texas, in March, 1981, telegraphed the White House that it is the position of the Board of Directors of the State Bar of Texas "that the services of both staff attorneys and private practitioners will be required to effectively and efficiently provide legal services to indigent Americans." And the Missouri Bar Board of Governors wired the ABA to say that "Individual lawyers, because of the growth of society and its related problems, cannot and should not bear this responsibility (of legal services to the indigent) alone even though they are willing to assume their fair share."

Those views were echoed by 388 Bar associations in all 50 states, the District of Columbia, Guam, Puerto Rico and nationally who have sent statements of support to the Legal Services Corporation as of March 1, 1982.

Those Bar organizations know full well the impossibility that the legal profession would have in replacing the Legal Services Corporation. This was demonstrated recently in Los Angeles where, according to the Wall Street Journal of January 28, 1982, a pro bono project run by the Bar association is only able to accept about half the referrals sent to it from the Legal Services program because of a lack of private attorney participation. Although the project screens out clients who might present problems for the volunteer lawyers, the Bar Association's director of the pro bono project said that individual attorneys aren't responding--she attributes it to the economic crunch and a general tide of conservatism.

As former LSC President Dan J. Bradley stated in testimony before the Senate Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies, on March 12, 1982:

> "There is not one shred of evidence in the President's Budget Message or elsewhere to support the notion that the private bar in this country is either willing or able to replace the work conducted by the federally funded Legal Services program."

But Mr. Bradley went on to add:

> "There is, however, significant evidence of more importance to the debate--that the presence of a core Legal Services program does much to provide a base and expand the possibility for pro bono efforts."

The contributions of private attorneys can be most effective as a complement to a professional, full-time, staffed Legal Services program. In a letter of March 15, 1982, to Bar leaders across the nation, David Brink, President of the American Bar Association, put the proposition well:

> "In its budget message, the Administration has suggested that the burden of providing all civil legal services to the poor should rest on the shoulders of the private bar. We disagree. While we have been actively promoting increased participation in the delivery of legal services to the poor by the private bar, we realize that lawyers alone will not be able to meet more than a small portion of the need. Equal access to justice is a national goal and a national responsibility which should be provided by the public. We must continue our support for the federally-funded program."

Appendix F to PAG 1983 Budget Request for the LSC

A Summary of Public Support for Continued Funding of the Legal Services Corporation

In the months that have followed the announcement in March, 1981, of President Reagan's intention to abolish the now 18-year old federally funded Legal Services program, thousands of Bar leaders, newspapers, labor leaders and law school deans, as well as the general public, have voiced their strong opposition to the President's plan.

Certainly the most visible form of support for Legal Services has been the hundreds of newspaper editorials that have appeared since last March in large cities and in small towns and villages.

On March 8, 1981, for example, The New York Times in its lead editorial entitled, "Saving Money? No, Preserving Justice," observed that:

> "The issue here (the President's intention to abolish the Legal Services program) is not just another worthy social program that America can't fully afford. It is a matter of protecting a fundamental principle of a fair society--equal justice. Legal Services represents in civil law what public defenders represent in criminal law: a chance for poor people to establish their rights by means available to the rest of society."

No region of the country has been spared from the sharp pens of editorialists critical of the President's plan. A case in point is an editorial which appeared in the July 6, 1981, issue of the Ahoskie News Herald in Ahoskie, N. C., a rural, agrarian area, which concluded by stating:

> "Not many of Lyndon Johnson's Great Society programs have come through to the Reagan administration with much of a future. With appropriate controls, though, this one (Legal Services Corporation) deserves to survive."

Among the strongest and most vocal supporters for continued Federal funding for Legal Services are hundreds of national, state and local Bar associations, judges and law school deans.

The organized Bar has always supported the concept behind and need for a Federally-funded, independent Legal Services Corporation. And when the President's budget proposal was announced, it was the organized Bar which helped lead the counteroffensive. On March 10, 1981, representatives of some 25 state Bar associations joined with the President of the American Bar Association in Washington to tell reporters of their strong objections to "zero funding for Legal Services." Almost one year later, on March 1, 1982, about 400 Bar associations and organizations covering all the states and territories had passed resolutions stating their support for continuation of the Legal Services Corporation.

This year's ABA President, David R. Brink, is continuing to lead national efforts to save Legal Services as indicated by his attached letter of March 15 to Bar leaders across the country. In that letter he again urges Bar leaders to come to the defense of Legal Services and he notes that "Equal access to justice is a national goal and a national responsibility which should be provided by the public. We must continue our support for the federally-funded (Legal Services) program."

Somewhat surprisingly, strong sentiment in favor of retaining the Legal Services Corporation has also surfaced during the last year among persons who consider themselves "conservatives" as well as among those who "generally favor President Reagan's economic program." Evidence of this was found in a New York Times/CBS poll of 2,500 people conducted in April, 1981.

The results of that poll indicated that 78% of the "conservatives" polled wanted to maintain or increase present levels of funding for Legal Services.

Among interviewees who favored the President's overall economic program, support for maintaining or increasing 1981 funding levels for Legal Services reached the 80% mark. The only other program that respondents wanted to increase funding for was national defense. Overall, 83% of those interviewed, regardless of their political affiliation, supported maintaining or increasing federal spending on Legal Services.

One other group that has played an active and important role in the fight to preserve funding for Legal Services is "Advocates To Save Legal Services," a national organization headed by former Democratic Vice President Walter Mondale and former Republican Senator James Pearson of Kansas.

In addition to soliciting funds to aid in the efforts to save Legal Services, "Advocates" has successfully enlisted the support of hundreds of civil rights organizations, religious groups, unions and other entities as well as a large number of prominent business leaders. Among the organizations participating in the "Advocates" program are the NAACP, League of Women Voters, Urban League, United States Conference of Mayors, National Baptist Convention, AFL-CIO, Teamsters and United Mine Workers.

STATEMENT OF PETER W. HUGHES, LEGISLATIVE COUNSEL, NATIONAL RETIRED TEACHERS ASSOCIATION, AMERICAN ASSOCIATION OF RETIRED PERSONS

The National Retired Teachers Association and the American Association of Retired Persons appreciate your leadership in efforts to save the Legal Services Corporation. Because funding for the Corporation must once again be approved by the Subcommittee on State, Justice, Commerce and the Judiciary, we urge you to continue your efforts to retain the Corporation.

With a membership of more than 13 million people over the age of 55, the Associations are well aware of the legal needs of older Americans. One-fourth of all elderly people are poor or near poor, and they face many difficult problems involving, for example, public benefits, housing and age discrimination. Resolving these problems can make a major difference in the quality of their lives and in their economic well-being. Without the availability of legal advice provided by an attorney or someone trained in the relevant aspect of the law, it is far less likely that the resolution will be attained.

The Associations are directly involved in providing legal services to the elderly poor in the District of Columbia through our Legal Counsel for the Elderly (LCE) program. Through support from the Legal Services Corporation, LCE is able to accumulate the resources of the Associations, the D.C. Bar, the Administration on Aging, local private attorneys (both active and retired), and many other volunteers. The result is an effective system of representation of the elderly poor in the District.

We do not believe LCE or many other legal services projects could survive without the support of the Legal Services Corporation. Although a tremendous amount of work is done by volunteers (LCE runs a Volunteer Lawyers Project which is fully funded by the Corporation), they cannot provide these services alone. Advocacy on behalf of the elderly often requires a knowledge of public benefit law and agency procedure which few attorneys in private practice have. Also, LCE provides outreach to elderly clients that are homebound or in nursing homes, which private attorneys cannot provide. It is therefore essential that legal services programs remain strong and that private resources supplement publicly funded legal services.

Prior to its funding cutback, the Associations felt that the Legal Services Corporation was becoming increasingly responsive to the needs of the elderly poor. We hope that under the present 25 percent funding cut, the Corporation will have enough resources to maintain a reliable level of services. We believe that additional cuts would be extremely damaging.

If Congress decides to eliminate the Legal Services Corporation, there is no other means through which legal representation and consultation can be provided for the most vulnerable members of the elderly population. At a time when public benefit law is constantly changing and becoming even more confusing, this representation is crucial. For these reasons, we urge you to maintain the current funding level for the Legal Services Corporation.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will recess subject to the call of the Chair.

[Whereupon, at 11:46 a.m., Wednesday, April 28, the subcommittee was recessed, subject to the call of the Chair.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MAY 4, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senators Weicker, Inouye, and DeConcini.

DEPARTMENT OF STATE

STATEMENT OF HON. ALEXANDER M. HAIG, JR., SECRETARY OF STATE

ACCOMPANIED BY RICHARD T. KENNEDY, UNDER SECRETARY FOR MANAGEMENT

OPENING REMARKS

Senator WEICKER. The committee will come to order.

The first witness this morning is the Secretary of State, Alexander M. Haig, Jr., who will give an overview of the requests of the Department of State.

Welcome to the committee, Mr. Secretary.

I would like to, at the outset, indicate that, at least in the view of one U.S. Senator, that I think you have had a tough row to hoe. I think you have done very well at it. That was a very difficult situation presented to this Nation in terms of two of our friends, and I know there is a lot of flap and chatter as to what should or shouldn't have been done. I think you took the only course and should be commended for it.

I think we all hope that your efforts will succeed and they, as I gathered, are going on. But in any event, I am not privy to the politics that go on downtown. I think you should hear from at least one person from up here. There are many colleagues, as I am sure you are aware, that are proud of your efforts.

Go right ahead.

GENERAL STATEMENT

Secretary HAIG. Thank you, very much, Mr. Chairman.

As always, it is a great pleasure to be before the Appropriations Committee of the Senate to begin the hearings on the President's fiscal year 1983 budget for the Department of State.

The international challenges and opportunities facing the United States today have placed the Foreign Service and the Department of State in the front-line defense of our national interests.

Accurate and clear reporting are critical if we are to anticipate political and economic events. Intellectual and diplomatic creativity are essential if we are to establish and sustain the trust, friendship, and understanding of other countries.

A strong and viable Foreign Service enables us to handle a multitude of foreign policy problems, including especially the preservation of peace.

The President recognizes that successful diplomacy rests on a solid foundation of strength and resolve. But renewed military strength serves its true purpose of preserving the peace when it is accompanied by diplomatic efforts to settle disputes, strengthen alliances, promote development, and reduce the risks of war.

As a soldier as well as a diplomat, I can tell you that diplomacy is an investment in deterrence itself. The task of statesmanship is to shape events, not merely to react to them.

In a world marked by many powers and interests, the President has established a transcending objective for the United States: to create an international environment hospitable to American views, especially the freedom and creativity of the individual.

To accomplish this task, we have emphasized the strengthening of our traditional alliances and the nurturing of new partnerships; the promotion of peaceful progress in the developing world and the achievement of a relationship with the Soviet Union based on strength and reciprocity.

We can influence international events if we have the knowledge and the sensitivity to appreciate regional realities and the unique circumstance in every country.

This can only be done if we have the informed reporting and the understanding of our professional Foreign Service.

The budget before you is necessary to sustain the excellence of the Foreign Service today. We put it forward fully recognizing the requirements of these very austere times, and we are committed to the President's program of fiscal restraint.

PROGRAM REDUCTIONS

The Department has done its full share to meet the reductions required by this program. In fiscal year 1982 alone, the Department has reduced more than $200 million from our March 1981 request.

As a consequence, there have been substantial reductions in the Department's activities. The 1983 budget request is therefore critical if we are to continue to meet U.S. foreign policy goals.

Operational funding in the 1983 budget is approximately equal in constant dollars to the 1974 appropriations. During this same period, the responsibilities of the Department have grown and the complexities of diplomacy have increased.

However, our key resource, people, has actually declined in numbers. The Department has also been forced to reduce expenditures for a number of major activities in order to absorb many new programs.

All too frequently, we have failed to make the provisions necessary today to insure a better service tomorrow.

This dangerous trend must be reversed. The 1983 budget proposes prudent increases that constitute a long-term investment in both personnel and property. Even with these modest changes, we will have the smallest budget outlays of any cabinet-level official agency.

With the full support of this committee and the Congress, the Department will be able to make major cost-effective strides toward meeting its objectives.

Under Secretary Kennedy, on my left, and other representatives of the Department will address the specifics of the budget, but allow me to mention certain items which are of particular significance.

FISCAL YEAR 1983 INCREASES

About 82 percent of the total 1983 increase is needed just to operate at current levels. Most of this increase offsets the effects of overseas wage and price increases in countries abroad where inflation is often substantially higher than in the United States.

Also, burgeoning passport and consular requirements will alone require over 100 new positions in 1983.

The remaining 18 percent of our 1983 increase is for several programs of key importance. This includes resources as part of a continuing program supported by the Congress to strengthen substantive political and economic reporting analysis in critical regions such as the Caribbean, the Middle East, and Asia.

A lean and efficient cadre of professional officers is required to perform effectively a myriad of foreign policy responsibilities. As a step in implementing the Foreign Service Act of 1980, the 1983 budget includes a modest increment of new positions and funds to carry out a mandatory mid-level training program for all career officers. This investment in education and training will strengthen our capacity to manage foreign policy by insuring that officers achieve high standards of professional excellence.

The budget also funds the first phase of construction for our new embassy complex in Riyadh, Saudi Arabia. This project is imperative physically and politically. The upcoming shift of the Saudi diplomatic capital from Jidda to Riyadh in the fall of 1983—a distance of some 800 miles—makes this project necessary.

Without it, relations between the United States and our Saudi Arabian friends will be hampered as they proceed to establish formally this new diplomatic capital. In addition, further delaying construction of the chancery and the embassy residences to 1984 will increase the total cost of the project by some $7 million because of inflation and rental costs.

The 1983 budget also provides for necessary efficiencies and economies in areas throughout the Department such as: enhancing communications and computer capacity, particularly by updating obsolete systems. This includes continuing development of the new financial managenent system so policymakers in the Department can make sound decisions on resource allocation; additional resources for the President's program to combat waste, fraud, and mismanagement; strengthen administrative capacity in underdeveloped countries where our workload has dramatically increased.

These efforts, while requiring relatively small investments, will more than pay for thenselves through the cost savings they will achieve. Delay on such matters will not only aggravate the current inefficiencies but mean higher startup costs in the future.

These additional resource requirements are necessary to maintain the Department's institutional responsibilities. But our Foreign Service and other employees are also facing real dangers abroad.

SECURITY OF PERSONNEL

I must re-emphasize to the committee that the security for our personnel remains the Department's highest priority. Indeed, because of the recent individual acts of terrorism against specific officers abroad, such as Chargé Chapman, General Dozier, and Assistant Military Attaché Ray, we are moving rapidly to blunt this growing threat to the safety of our employees. An urgent request to meet 1982 supplemental security reqirements has recently been transmitted to Congress which will provide additional armored vehicles and guard services and improve public access controls and communications.

SUPPORT FOR INFRASTRUCTURE

In conclusion, Mr. Chairman, U.S. foreign policy must provide a broad framework to foster respect for individual liberty, to preserve peace, to increase security and to promote development. But if the United States is to conduct an effective policy directed toward these goals, then the State Department must have the necessary resources.

We simply cannot carry out our foreign policy initiatives, including programs of military and developmental aid, unless we have an adequate infrastructure. I am confident that we will continue to receive your support for this infrastructure in the crucial days ahead.

PREPARED STATEMENT

Mr. Chairman, this budget is the product of rigorous effort. It constitutes a sound progran for the conduct of current operations, and just as importantly, it offers an investment for the future. The American people and the foreign policy professionals who serve them deserve no less.

[The statement follows:]

Statement of Alexander M. Haig, Jr.

IT IS A GREAT PLEASURE TO BE HERE TODAY TO BEGIN HEARINGS ON THE PRESIDENT'S FISCAL YEAR 1983 BUDGET FOR THE DEPARTMENT OF STATE.

THE INTERNATIONAL CHALLENGES AND OPPORTUNITIES FACING THE UNITED STATES TODAY HAVE PLACED THE FOREIGN SERVICE AND THE DEPARTMENT OF STATE IN THE FRONT LINE DEFENSE OF OUR NATIONAL INTERESTS. ACCURATE AND CLEAR REPORTING ARE CRITICAL IF WE ARE TO ANTICIPATE POLITICAL AND ECONOMIC EVENTS. INTELLECTUAL AND DIPLOMATIC CREATIVITY ARE ESSENTIAL IF WE ARE TO ESTABLISH AND SUSTAIN THE TRUST, FRIENDSHIP AND UNDERSTANDING OF OTHER COUNTRIES. A STRONG AND VITAL FOREIGN SERVICE ENABLES US TO HANDLE THE MULTITUDE OF FOREIGN POLICY PROBLEMS INCLUDING THE PRESERVATION OF PEACE.

THE PRESIDENT RECOGNIZES THAT SUCCESSFUL DIPLOMACY RESTS ON A SOLID FOUNDATION OF STRENGTH AND RESOLVE. BUT RENEWED MILITARY STRENGTH SERVES ITS TRUE PURPOSE OF PRESERVING PEACE WHEN IT IS ACCOMPANIED BY DIPLOMATIC EFFORTS TO SETTLE DISPUTES, STRENGTHEN ALLIANCES, PROMOTE DEVELOPMENT, AND REDUCE THE RISKS OF WAR. AS A SOLDIER AS WELL

AS A DIPLOMAT, I CAN TELL YOU THAT DIPLOMACY IS AN INVESTMENT IN DETERRENCE ITSELF.

THE TASK OF STATESMANSHIP IS TO SHAPE EVENTS, NOT MERELY TO REACT TO THEM. IN A WORLD MARKED BY MANY POWERS AND INTERESTS, THE PRESIDENT HAS ESTABLISHED A TRANSCENDING OBJECTIVE FOR THE UNITED STATES: TO CREATE AN INTERNATIONAL ENVIRONMENT HOSPITABLE TO AMERICAN VALUES, ESPECIALLY THE FREEDOM AND CREATIVITY OF THE INDIVIDUAL. TO ACCOMPLISH THIS TASK, WE HAVE EMPHASIZED THE STRENGTHENING OF OUR TRADITIONAL ALLIANCES AND THE NURTURING OF NEW PARTNERSHIPS, THE PROMOTION OF PEACEFUL PROGRESS IN THE DEVELOPING WORLD, AND THE ACHIEVEMENT OF A RELATIONSHIP WITH THE SOVIET UNION BASED ON RESTRAINT AND RECIPROCITY. WE CAN INFLUENCE INTERNATIONAL EVENTS IF WE HAVE THE KNOWLEDGE AND THE SENSITIVITY TO APPRECIATE REGIONAL REALITIES AND THE UNIQUE CIRCUMSTANCES OF EVERY COUNTRY. THIS CAN ONLY BE DONE IF WE HAVE THE INFORMED REPORTING AND THE UNDERSTANDING OF OUR PROFESSIONAL FOREIGN SERVICE.

THE BUDGET BEFORE YOU IS NECESSARY TO SUSTAIN THE EXCELLENCE OF THE FOREIGN SERVICE. WE PUT IT FORWARD FULLY RECOGNIZING THE REQUIREMENTS OF THESE AUSTERE TIMES AND WE ARE COMMITTED TO THE PRESIDENT'S PROGRAM OF FISCAL RESTRAINT.

THE DEPARTMENT HAS DONE ITS FULL SHARE TO MEET THE REDUCTIONS REQUIRED BY THIS PROGRAM. IN FISCAL YEAR 1982 ALONE, THE DEPARTMENT HAS REDUCED MORE THAN $200 MILLION FROM OUR MARCH 1981 REQUEST. AS A CONSEQUENCE, THERE HAVE ALSO BEEN SUBSTANTIAL REDUCTIONS IN THE DEPARTMENT'S ACTIVITIES. THE 1983 BUDGET REQUEST IS THEREFORE CRITICAL IF WE ARE TO CONTINUE TO MEET U.S. FOREIGN POLICY GOALS.

OPERATIONAL FUNDING IN THE 1983 BUDGET IS APPROXIMATELY EQUAL IN CONSTANT DOLLARS TO THE 1974 APPROPRIATIONS. DURING THIS SAME PERIOD, THE RESPONSIBILITIES OF THE DEPARTMENT HAVE GROWN AND THE COMPLEXITIES OF DIPLOMACY HAVE INCREASED. HOWEVER, OUR KEY RESOURCE -- PEOPLE -- HAS DECLINED IN NUMBERS. THE DEPARTMENT HAS ALSO BEEN FORCED TO REDUCE EXPENDITURES FOR A NUMBER OF MAJOR ACTIVITIES IN ORDER TO ABSORB MANY NEW PROGRAMS. ALL TOO FREQUENTLY, WE HAVE FAILED TO MAKE THE PROVISIONS NECESSARY TODAY TO ENSURE A BETTER SERVICE TOMORROW.

THIS DANGEROUS TREND MUST BE REVERSED. THE 1983 BUDGET PROPOSES PRUDENT INCREASES THAT CONSTITUTE A LONG-TERM INVESTMENT IN BOTH PERSONNEL AND PROPERTY. EVEN WITH THESE MODEST CHANGES, WE WILL HAVE THE SMALLEST BUDGET OUTLAYS OF ANY CABINET-LEVEL AGENCY. WITH THE FULL SUPPORT OF THIS

COMMITTEE AND THE CONGRESS, THE DEPARTMENT WILL BE ABLE TO MAKE MAJOR COST-EFFECTIVE STRIDES TOWARDS MEETING ITS OBJECTIVES.

UNDER SECRETARY KENNEDY AND OTHER REPRESENTATIVES OF THE DEPARTMENT WILL ADDRESS THE SPECIFICS OF THE BUDGET, BUT ALLOW ME TO MENTION CERTAIN ITEMS WHICH ARE OF PARTICULAR SIGNIFICANCE.

- ABOUT 82% OF OUR TOTAL 1983 INCREASE IS NEEDED JUST TO OPERATE AT CURRENT LEVELS. MOST OF THIS INCREASE OFFSETS THE EFFECTS OF OVERSEAS WAGE AND PRICE INCREASES IN COUNTRIES ABROAD WHERE INFLATION IS OFTEN SUBSTANTIALLY HIGHER THAN IN THE UNITED STATES. ALSO, BURGEONING PASSPORT AND CONSULAR REQUIREMENTS WILL ALONE REQUIRE OVER 100 NEW POSITIONS IN 1983.

- THE REMAINING 18% OF OUR 1983 INCREASE IS FOR SEVERAL PROGRAMS OF KEY IMPORTANCE. THIS INCLUDES RESOURCES AS PART OF A CONTINUING PROGRAM SUPPORTED BY THE CONGRESS TO STRENGTHEN SUBSTANTIVE POLITICAL AND ECONOMIC REPORTING AND ANALYSIS IN CRITICAL REGIONS SUCH AS THE CARIBBEAN, THE MIDDLE EAST, AND ASIA.

- A LEAN AND EFFICIENT CADRE OF PROFESSIONAL OFFICERS IS REQUIRED TO PERFORM EFFECTIVELY A MYRIAD OF FOREIGN POLICY RESPONSIBILITIES. AS A STEP IN IMPLEMENTING THE

FOREIGN SERVICE ACT OF 1980, THE 1983 BUDGET INCLUDES A MODEST INCREMENT OF NEW POSITIONS AND FUNDS TO CARRY OUT A MANDATORY MID-LEVEL TRAINING PROGRAM FOR CAREER OFFICERS. THIS INVESTMENT IN EDUCATION WILL STRENGTHEN OUR CAPACITY TO MANAGE U.S. FOREIGN POLICY BY ENSURING THAT OFFICERS ACHIEVE HIGH STANDARDS OF PROFESSIONAL EXCELLENCE.

THE BUDGET ALSO FUNDS THE FIRST PHASE OF CONSTRUCTION FOR OUR NEW EMBASSY COMPLEX IN RIYADH, SAUDI ARABIA. THIS PROJECT IS IMPERATIVE PHYSICALLY AND POLITICALLY. THE UPCOMING SHIFT OF THE SAUDI DIPLOMATIC CAPITAL FROM JIDDA TO RIYADH IN THE FALL OF 1983 -- A DISTANCE OF 800 MILES -- MAKES THIS PROJECT NECESSARY. WITHOUT IT, RELATIONS BETWEEN THE U.S. AND OUR SAUDI ALLIES WILL BE HAMPERED AS THEY PROCEED TO ESTABLISH FORMALLY THIS NEW DIPLOMATIC CAPITAL. IN ADDITION, FURTHER DELAYING CONSTRUCTION OF THE CHANCERY AND EMBASSY RESIDENCES TO 1984 WILL INCREASE THE TOTAL COST OF THIS PROJECT BY SOME $7 MILLION BECAUSE OF INFLATION AND RENTAL COSTS.

THE 1983 BUDGET ALSO PROVIDES FOR NECESSARY EFFICIENCIES AND ECONOMIES IN AREAS THROUGHOUT THE DEPARTMENT, SUCH AS:

- ENHANCING COMMUNICATIONS AND COMPUTER CAPACITY, PARTICULARLY BY UPDATING OBSOLETE SYSTEMS. THIS INCLUDES

CONTINUING DEVELOPMENT OF THE NEW FINANCIAL MANAGEMENT SYSTEM SO POLICYMAKERS IN THE DEPARTMENT CAN MAKE SOUND DECISIONS ON RESOURCE ALLOCATION.

- ADDITIONAL RESOURCES FOR THE PRESIDENT'S PROGRAM TO COMBAT WASTE, FRAUD, AND MISMANAGEMENT.
- STRENGTHENING ADMINISTRATIVE CAPACITY IN UNDERDEVELOPED COUNTRIES WHERE OUR WORKLOAD HAS DRAMATICALLY INCREASED.

THESE EFFORTS, WHILE REQUIRING RELATIVELY SMALL INVESTMENTS, WILL MORE THAN PAY FOR THEMSELVES THROUGH THE COST SAVINGS THEY WILL ACHIEVE. DELAY ON SUCH MATTERS WILL NOT ONLY AGGRAVATE CURRENT INEFFICIENCIES, BUT MEAN HIGHER START-UP COSTS IN THE FUTURE.

THESE ADDITIONAL RESOURCE REQUIREMENTS ARE NECESSARY TO MAINTAIN THE DEPARTMENT'S INSTITUTIONAL RESPONSIBILITIES. BUT OUR FOREIGN SERVICE AND OTHER EMPLOYEES ARE ALSO FACING REAL DANGERS ABROAD. I MUST REEMPHASIZE TO THE COMMITTEE THAT SECURITY FOR OUR PERSONNEL REMAINS THE DEPARTMENT'S HIGHEST PRIORITY. INDEED, BECAUSE OF THE RECENT INDIVIDUAL ACTS OF TERRORISM DIRECTED AGAINST SPECIFIC OFFICERS ABROAD, SUCH AS CHARGE CHAPMAN, GENERAL DOZIER AND ASSISTANT MILITARY ATTACHE RAY, WE ARE MOVING RAPIDLY TO BLUNT THIS GROWING THREAT TO

THE SAFETY OF OUR EMPLOYEES. AN URGENT REQUEST TO MEET 1982 SUPPLEMENTAL SECURITY REQUIREMENTS HAS RECENTLY BEEN TRANSMITTED TO CONGRESS WHICH WILL PROVIDE ADDITIONAL ARMORED VEHICLES AND GUARD SERVICES AND IMPROVE PUBLIC ACCESS CONTROLS AND COMMUNICATIONS.

IN CONCLUSION, U.S. FOREIGN POLICY MUST PROVIDE A BROAD FRAMEWORK TO FOSTER RESPECT FOR INDIVIDUAL LIBERTY, TO PRESERVE PEACE, TO INCREASE SECURITY, AND TO PROMOTE DEVELOPMENT. BUT IF THE U.S. IS TO CONDUCT AN EFFECTIVE POLICY DIRECTED TOWARD THESE GOALS, THEN THE STATE DEPARTMENT MUST HAVE THE NECESSARY RESOURCES. WE SIMPLY CANNOT CARRY OUT OUR FOREIGN POLICY INITIATIVES, INCLUDING PROGRAMS OF MILITARY AND DEVELOPMENTAL AID, UNLESS WE HAVE AN ADEQUATE INFRASTRUCTURE. I AM CONFIDENT THAT WE WILL CONTINUE TO RECEIVE YOUR SUPPORT FOR THIS INFRASTRUCTURE IN THE CRUCIAL TIMES AHEAD.

MR. CHAIRMAN, THIS BUDGET IS THE PRODUCT OF RIGOROUS EFFORT. IT CONSTITUTES A SOUND PROGRAM FOR THE CONDUCT OF CURRENT OPERATIONS AND, JUST AS IMPORTANT, IT OFFERS AN INVESTMENT FOR THE FUTURE. THE AMERICAN PEOPLE AND THE FOREIGN POLICY PROFESSIONALS WHO SERVE THEM SO WELL, DESERVE NO LESS.

Senator WEICKER. Thank you, very much, Mr. Secretary.

I have two questions, and then we will move along to the other members of the committee. I think the committee would very much appreciate an update as to the situation in the Falklands and an update also on your measures as to trying to mediate this.

I will let you set that out in any fashion you wish.

Secretary HAIG. Fine, Mr. Chairman.

As you know, this crisis in the South Atlantic has engaged our attention in a very active and intense way. It has done so because of the high stakes involved, not just for the participants and the parties to the dispute, but more importantly, to broad alliance, hemispheric, east and west and north and south issues which will be importantly affected by this crisis.

From the outset, the President felt that we did not have the luxury of standing aside and letting events or other organizational efforts, as important as they are and may continue to be, to be the sole basis for our efforts in the direction of a peaceful solution.

We have been guided from the outset by U.N. resolution 502, which calls for cessation of hostilities, a withdrawal of the Argentine forces from the Falklands—Islas Malvinas—and a political solution to this historic dispute between two of our friends.

That process and our involvement in it was invaluable in the sense that if nothing else, it has sorted out the fundamental issues involved and the hard points which thus far have remained intractable between the parties. But the sorting out process itself has brought us to the point where each side, both of whom we believe want peace, can deal somewhat more realistically with these hard points—especially the a priori demands for a transfer of sovereignty, either as a precondition to negotiations or as a de facto consequence of the creation of conditions on the island and parts of Argentina.

We have also had activity over the weekend, including efforts by the Government of Peru to work in a somewhat more simplified framework which builds upon a sensitive understanding of the more esoteric issues that were developed over the last 3 weeks, and also including increased recent activity on the part of the Secretary General of the United Nations.

As of this moment, the necessary flexibility has not developed in Buenos Aires. One could readily draw the conclusion that the recent tragic loss of lives associated with the loss of the Argentine cruiser has contributed to this continuing conflict. But the President believes and I also believe that this situation must ultimately be resolved through political negotiation.

The long-term consequences of continuing conflict are extremely serious to behold, first, in the context of our relationships with two friends; second, in the context of hemispheric solidarity, wherein tensions are beginning to arise; third, in the opportunities that are provided for fishing in troubled waters by the Soviet Union, and by their proxy, Cuba.

All of this, together with the human stakes involved, continue to propel the United States and the President to stay as active and helpful as we can to the parties, recognizing that the decisions announced on Friday have limited our ability to do that to some degree. What it has not limited is the stratosphere of knowledge that we have now with respect to the true issues involved in this crisis. That knowledge is available directly to the parties, the third parties, or through organizational efforts that should offer some progress.

Senator WEICKER. Are we involved with any sort of a negotiating process at this particular moment?

Secretary HAIG. Not in the formal sense of the word, Mr. Chairman. I have been in touch with the President of Peru on the President's instructions. I think what we are faced with at this moment is the failure, thus far, on the part of the leadership of Buenos Aires, to be willing to abandon the visions being held of preconditions that sovereignty must be transferred either a priori or as a condition for negotiations; in other words, the outcome of such negotiations would be predetermined.

Senator WEICKER. Instead of moving on to other subjects, why don't I just allow my colleagues to ask any questions on this subject matter to keep the continuity here.

REACTION OF LATIN AMERICAN LEADERS

Senator INOUYE. How have the Latin American leaders reacted to our role in this conflict?

Secretary HAIG. You mean in the context of Friday's decision?

Senator INOUYE. Yes.

Secretary HAIG. Senator, clearly the American decision to lay out for international public opinion the current status of the situation as objectively as we are capable of doing was not a step that was welcomed by the majority of the Spanish-speaking Latin American governments.

It ranges in intensity of concern; from a very high level of concern in Venezuela, for example, and in Peru, as well. They are traditional friends of Argentina, close friends, but I have made the point, and I would reaffirm again today, that the position of the U.S. Government in support of U.N. resolution 502 and above all, our insistence that disputes must be resolved through peaceful means and with adherence to the rule of law, is a fundamental principle that meets the vital interest of every republic in this hemisphere, many of which are threatened, and the peace is threatened by similar historic controversies involving territories in dispute.

For the United States to maintain an extended period of ambivalence on this question would be misleading; it would be a violation of the fundamental principles that this Government stands for, and would, in the long term, in the historic term, abuse the vital interests of all of the member states of the hemisphere.

Senator INOUYE. Thank you, sir.

Senator WEICKER. Senator DeConcini?

CONSIDERATIONS FOR RESOLUTION OF CONFLICT

Senator DECONCINI. Thank you, Mr. Chairman.

Mr. Secretary, have considerations been given to both sides of this conflict of an understanding of an arrangement similar to that Great Britain had with the People's Republic of Hong Kong on any kind of a sovereignty basis for Argentina but the use and constant governance of the island to remain with the British?

Had that been considered, do you know?

Secretary HAIG. Yes; the so-called lease-back option.

Senator DECONCINI. Yes, sir.

Secretary HAIG. This has been considered, of course, from the outset as a possible vehicle for resolution of the current dispute.

Senator DECONCINI. To no avail, I presume?

Secretary HAIG. One has to look back at the history of the proposal made originally by the British Government for such an arrangement. That was predicated on a long-held principle of the British Government in the decolonialization process, and Great Britain has had a long and rather difficult period in post-World War II history. In this process, Britain has always placed great emphasis on self-determination; in other words, the desires of the populations involved in the disputed territory.

When they put this proposal forth early, it was the inhabitants of the Falklands, who are primarily of Scottish origin, who refused to accept such a concept.

So we don't go into a new proposal of this kind with a great deal of flexibility, and whatever the outcome, the ultimate destiny of the islands, it must take into consideration the aspirations, if you will, and the interests of the population. That has been the long-held British view, and I don't think that the Argentine Government, having in the past seen such a proposal fall on the rocks of self-determination, has more than very little enthusiasm for a similar approach unless it were to be imposed on the inhabitants of the island, that would perhaps offer an opportunity.

Senator DECONCINI. If the negotiations are conditioned on self-determination of the 1,800 or 2,000 people there, that is very unlikely that it would ever be anything that remained to be British subjects. That is why I wondered if there was any serious compromise from sovereignty that would be transferred to the Argentines, with, like you say, the lease-back arrangements so that you could obviously have a little bit of the best of both worlds, that has been considered from your statements but is not too practical.

Secretary HAIG. I want to make it clear, Senator, that it has not been the position of the U.S. Government that self-determination is the exclusive——

Senator DECONCINI. I see.

Secretary HAIG [continuing]. Formula for the ultimate resolution, but rather that the aspirations and the attitudes of the populations must play a role, not necessarily the exclusive role.

Senator DECONCINI. Yes.

Secretary HAIG. But if one combined a measure of recognition of that vital principle with normalization and opportunities for the Argentine Government to demonstrate to the populations the advantages of other alternatives that are occurring and a reasonable historic evolutionary approach to this problem, one would expect that the Government of Argentina would have every reason to anticipate that the decision would be different enough in the future, as far as the populations are concerned, than perhaps it has been in the past.

ALLIED ACTIONS ON FALKLANDS AND POLISH CRISES

Senator DECONCINI. Mr. Chairman, I will be brief.

Mr. Secretary, it is my understanding that the European Common Market and our NATO allies, unanimously supported the British position in this conflict.

Secretary HAIG. They have in the context of an incident in which the territory in dispute has been seized by armed forces, and they have joined in sanctions on new trade arrangements with Argentina in that these arrangements would be held in abeyance for a 30-day period. That will have to be reviewed, maybe, in considerations as early as this coming weekend.

Senator DECONCINI. Is there any reason that you can give, or that you know, why that same response was not brought forward when the Polish crisis first came to public attention where the junta there was opposing martial law and making massive arrests and depressing solidarity where we took, I thought, a very forceful, strong position, and I applaud you for that, but yet the European Common Market and some of our NATO allies did not follow.

Is there any reason that we were not able to get that same response that the British have been able to get in their conflict?

Secretary HAIG. I think they are very different in the essential character of the abuse about which we are concerned, and the characterization of that abuse, for example, and I would not accuse the economic community of being totally impassive in the time of the Polish situation; hardly at all. You will recall they condemned the action. They have all taken, based on national considerations because of a difference in relationships with both the Soviet Union and Poland, a different level of involvement; they have taken a number of actions which, in many respects, are more stringent than those they have taken against Argentina.

Senator DECONCINI. But they didn't impose any trade embargo for 30 days, as they did against Argentina.

Secretary HAIG. Most of their attention has been in the area of credits. They have cut off credits to Poland. That has put Poland on the back of the Soviet Union at considerable sacrifice to the Soviet Union, but I think the most fundamental aspect of it is that in the case of the Falklands, direct military force was taken to seize, from the European perspective, a territory of one of their allies.

In the Polish question, there was an internal suppression by an incumbent government with whom the relationships were not comparable to those with Great Britain.

We have taken the position, and our European partners have taken the position that the Soviet Union bears a large measure of responsibility. They have taken action against the Soviet Union, in some instances, hardly as much as we would like to have seen as a government, but nonetheless, not totally without effect.

I think it is the nature of the beast that does suggest some of the differences.

I would also suggest to you that the Afghanistan situation and the coordination that took place at that time, and the Polish situation opened up lines of what I call communication and addressing of broad sanction areas that facilitated a very rapid response in the Falkland case.

Senator DECONCINI. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

PRIOR NOTICE OF ACTIONS BY ARGENTINA

Senator WEICKER. Mr. Secretary, two further questions: No. 1, did the United States have any notice whatsoever as to the actions of Argentina?

Secretary HAIG. No, Senator, we did not. We had been asked, 3 days before the crisis really developed, by the British to be of help on the South Georgia dispute, where some Argentina laborers had come in, undocumented, and there was a—what we called, a minor diplomatic squabble underway.

It wasn't until, I think the date was March 29, that some vague intelligence indicators began to develop. The next day, the British came in, very much convinced that military action was about to take place. We moved promptly with a demarche the day before the invasion. Those demarches included a——

Senator WEICKER. When was the date of invasion?

Secretary HAIG. The 2nd of April. On the 1st of April, we instructed our ambassador to go in and see the Foreign Minister and the President. No satisfactory response was received; in fact, precisely the opposite.

I called in the Argentine Ambassador here in Washington and expressed our grave concerns about the indications we had seen, and when neither of those indicated any reassurance, President Reagan personally called Galtieri and expressed again our concern and laid out very clearly that were this action to take place, it inevitably would have an impact on relationships between the United States and Argentina.

Senator WEICKER. Did you indicate at that time what was indicated this past Friday?

Secretary HAIG. No; nor would it have been appropriate, although the general statement that was made by the President made that very clear. But I must tell you in subsequence, in all of the discussions I have had with Argentina, I made it clear that were we not able to resolve this impasse, diplomatically, that inevitably, the United States would have to take such a position.

LOGISTICAL SUPPORT TO THE BRITISH

Senator WEICKER. Second, the extent of the logistical support that we are prepared to give the British or what support has been given; what support is contemplated to be given to the British at this time?

Secretary HAIG. I think it is too early to say, Mr. Chairman. We have had, as I have said before, within the context of ongoing obligations, just in treaties and agreements with Great Britain, a level of cooperation that has existed for years which has not been expanded during the period of this crisis. They have been very careful to avoid that.

Now, of course, that is potentially available to us, but it will be decided on a case-by-case basis, and it will be the consequence of specific requests, which we have not received. As you know, the Ascension Island belongs to the British, and in return for our access to that island, over many years, we have had certain arrangements for cooperative action which have been ongoing here and amount to the provision of some fuel, but we have not been engaged in any direct military support operations or any direct military activity, and we do not even under the provisions of Friday's announced decision, anticipate expanding our role in any way that would bring us to that touchy area of military involvement. We don't anticipate that at all.

U.S. POLICY TOWARD CUBA

Senator WEICKER. Are there any further questions on the Falklands?

Mr. Secretary, I wonder, now, if you would bring the committee up to date on what efforts have been ongoing vis-a-vis Cuba—there has been considerable coverage in the press about it—possibly indicate to the committee at what level the contacts have been and what is expected from them or where they stand at this time.

Secretary HAIG. Mr. Chairman, it has been our longstanding policy not to discuss extensive diplomatic activity of the kind your question touches upon. As you know, the President did confirm that I had a meeting earlier with the Vice President in Mexico City, the Vice President of Cuba. There has been speculation about additional contact since that time, but I find it vitally important to line up publicly those discussions with him.

With respect to our policy, it is long standing, and it has not changed. It is a policy which highlights the unacceptability of Cuban interference in the internal affairs of other states in this hemisphere and elsewhere, whether it be in Africa or in the Middle East.

On the other hand, the President has been very clear, also, that should Cuba, if not by words, but by perceptible actions, change, moderate, and redirect what have been unacceptable international activities on their part, that the United States will welcome the normalization of relationships, but there has been a long history of discussions on this subject accompanied by a long history of no moderation or change in the Cuban policies. So we are going to be very much impressed by what we see and not what Cuban officials say.

SOVIET PRESENCE

Senator WEICKER. Let me say this: I think what is also unacceptable is to have the Soviet Union in this hemisphere and quite frankly, the policies in effect before this administration I hold accountable for that fact.

As far as I am concerned, I think the American people are not wedded in any manner, shape, or form, whatever the policy has been up to this point, because they see as a consequence of that policy a Soviet presence that shouldn't be.

So I am not going to press you on the point as to what it is you are doing, because quite frankly, I think those things are best accomplished quietly.

CARIBBEAN AND HEMISPHERIC PROBLEMS

By the same token, you might want to use this as the occasion, because it is one of the things I want to commend the administration on and viewing the problems that we have in this hemisphere as very broad indeed in trying to address the broad aspects of it in the Caribbean initiative, so that once and for all, we can, hopefully, if we have a presence, if we are there, we are competing, we are helping, that it seems to me this is the way to go as compared to rushing into El Salvador, Nicaragua, Guatemala, et cetera, on a case-by-case basis. I want to recognize this is a foreign border problem that doesn't relate to any particular nation.

In the final analysis I see this as the only way to resolve this problem. Would you like to comment on that position on the Caribbean basin?

Secretary HAIG. Yes; as you know, Mr. Chairman, there is quite a bit of misinterpretation and something less benign. There has been a lot of speculation about this subject. We have pointed out, and I emphasize that we have problems country by country in which socioeconomic conditions are so devastatingly poor that inevitably, turbulence, internally, will result, and it is in America's interest and in the interests of the American people to do what we can in the socioeconomic area to help resolve these pressures and tensions.

Second, I point out that we have a hemispheric problem of broader consequence, as a result of Cuban activity in these caldrons of socioeconomic tension, under a guise of a quest for social justice which ultimately perverts that quest to appreciably totalitarian outcomes of the kind we have seen in Nicaragua.

Beyond that it is a global problem, and your question, I think, quite correctly, and your observations, quite correctly, point to that fact, and that is, the reality that the Soviet Union, its funds, its activity, its intelligence work, its arms policy, and especially its relationship with Cuba, where they support the Cuban policies which are offensive to us, make it an East-West problem of no insignificant proportions.

So it must be dealt with on that broad global front, on that regional front, as well as a country-by-country front. It must involve not only a sensitive and enlightened effort on the part of this Government through such projects as the Caribbean basin plan and bilateral aid programs to these countries to deal with the socioeconomic contradictions and to encourage democratic solutions as we have done in El Salvador. Despite all the cynicism of a few months ago, we have seen an election in El Salvador in which almost every eligible voter exercised his or her franchise.

We now have a government emerging, a provisional government, which is now emerging under which the new President has dedicated himself to a continuation of the agricultural reforms, the pluralistic directions of that country, and an avid search for peace with his service.

I think as a nation we can draw some encouragement that the policies we have been pursuing, while far from putting us out of the woods, so to speak, have been moving in the right direction, and they are broadly based in the character that you describe.

Senator Weicker. Senator Inouye?

SOVIET AND CUBAN INVOLVEMENT IN FALKLANDS

Senator Inouye. Mr. Secretary, what is the extent of Cuban and Soviet involvement in the Falkland crisis?

Secretary Haig. Senator, we have no hard evidence other than evidence of blandishments. There have been blandishments from the very first hours of this crisis from both Cuba and the Soviet Union to the Argentine Government. The Argentine Government has vociferously denied that it has accepted these blandishments, whether they involve the provision of intelligence or more material assistance.

We take those assurances at face value. I must say that the Soviet Union's public pronouncements coming from their propaganda organisms, with respect to the efforts that the United States has made to get a peaceful political solution in line with 502 have been outrageously wrong, but characteristically so.

Senator Inouye. Thank you, sir.

SITUATION IN POLAND

Senator Weicker. One last question, Mr. Secretary, because I know you have a meeting to go on to. The situation in Poland seems to be kicking up again. Would you like to comment on that and where you feel matters stand?

Secretary Haig. Mr. Chairman, we all watched this with great concern and great sympathy and a sense of deep responsibility, as well. I don't suppose there is any basis for surprise. We had felt and we continue to state that the lifting of martial law and the establishment of a dialog between the trade union movement and the government in Poland has been lagging badly. On the one hand, one might argue that it has moved so quickly that these new disturbances have developed.

We reject that. It is our view that what we saw in the May Day incidents and subsequent demonstrations is a result of frustration, and it is up to the Polish leadership and their Soviet allies to recognize this and to begin to move more promptly and responsibly in the direction of the three conditions that the Western World has insisted they must meet: Lifting martial law, releasing the prisoners, and commencing a dialog.

CONDITION OF WALESA

Senator WEICKER. What information do you have as to the condition of the leader, Walesa? Is he alive and well? Would you comment on that?

Secretary HAIG. Our understanding on that is he is alive, active, and remains vigorously with the convictions that he has characteristically demonstrated, but one must be concerned that any free spirit that has been compressed in a suppressive environment would not be the same today as he was at the outset of that suppression.

TRADE CREDITS AND FOOD

Senator WEICKER. What is the U.S. position vis-a-vis trade credits, food, et cetera, with Poland at this time?

Secretary HAIG. As you know, we are not providing credits. There has been a total cutoff. The burden and the consequences of this are becoming increasingly onerous. They are onerous to the Soviet Union because they have had to pick up the financing of Polish requirements, and it has come at a time when this is a very onerous burden for the Soviet Union, which is today carrying operations in Afghanistan, carrying Cuba, carrying North Vietnam, and experiencing profound systematic failure in their own economic structure internally.

Again, they have also been affected by the global patterns. It is our view that if this situation continues, that there could be total economic collapse in Poland, that they must have a resumption to the normal access to credits from the West, but the conditions for that remain the three that we talked about and I have stated from the outset.

Senator WEICKER. Sir, do you have any other questions?

Senator INOUYE. No.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. Thank you very much.

I gather we will be going over the details with Under Secretary Kennedy and others. Thank you very much, Mr. Haig.

We will have some additional questions that we will submit for your response.

Secretary HAIG. Thank you.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

Caribbean Basin Initiative

Question: I have some concern over the idea of a compensatory program for Puerto Rico and the Virgin Islands. During FY '82 budget hearings, the Administration opposed any compensation to the territories for revenue losses due to the economic recovery program. Why should the territories believe that an economic aid package resulting from the CBI will survive OMB scrutiny, especially in out years?

Answer: We would not characterize measures affecting Puerto Rico and the Virgin Islands as compensatory. Rather, they are designed to ensure that these territories are able to play a constructive role in the Initiative. We have consulted with their governments at every stage of the CBI process, and anticipate that Puerto Rico and the Virgin Islands will be active partners in CBI implementation. They want to share their experience in development with their neighbors in such areas as establishing twin plants and providing technical advice. To do this, they need to be strong economically themselves. This strengthening will be boosted through such CBI measures as investment tax credits and accelerated depreciation allowances; inclusion of inputs from Puerto Rico and the Virgin Islands in the 25 percent rules of origin requirement for products from the Basin; and increased cooperation in agricultural research. These measures are designed to boost private sector production in these territories, and are not part of an economic aid package which would require substantial out-year funding.

Question: A compensatory program will increase the dependence of Puerto Rico and the Virgin Islands on the federal government. What provisions does the CBI contain to strengthen the economies of those territories, particularly in such obvious areas as alternative energy demonstration and development?

Answer: Private sector production in Puerto Rico and the Virgin Islands will be strengthened through such CBI measures as investment tax credits and accelerated depreciation allowances; inclusion of inputs from Puerto Rico and the Virgin Islands in the 25 percent rules of origin requirement for products from the Basin; and increased cooperation in agricultural research. Rather than encouraging dependence, these measures will help to make these territories more economically self-sustaining.

Poland

Question: Mr. Secretary, in President Reagan's speech to the nation on the Polish martial law crackdown, he spoke of further steps what would be taken unless that situation improved. With the increase in repression witnessed in response to May Day pro-Solidarity marches, is the United States prepared to take further action?

Answer: We are watching developments in Poland closely and, in particular, the policy the Polish Government follows in the wake of its repression of demonstrations to determine our response. We hope they will adopt a rational approach to Poland's internal problems: lift martial law; release all political prisoners; and commence a dialogue with Solidarity and the Church aimed at assuring future peace in that country. As the President said in his Eureka speech, the Polish Government seems instead to be responding with water cannons and clubs.

Question: Poland's level of indebtedness to the West is extremely high. And yet the Administration intervened to prevent official default on a Polish Commodity Credit Corporation loan of $77 million earlier this year which the taxpayers eventually paid off. What plans have been made concerning the remainder of the U.S. guaranteed loans and why has the United States ignored this obvious and powerful lever against the martial law government and its Soviet sponsors?

Answer: We understand that the Committee is concerned about whether Poland should be declared in default as a means to exert pressure on the Polish regime and is also concerned that the Government is paying the Commodity Credit Corporation's (CCC) guarantees of commercial bank loans to Poland.

The President has decided that maximum pressure can be put on Poland by insisting on repayment of their debt--both that portion which we did not reschedule last year and that which falls due this year--and not by declaring the Poles in default at this time. We want to emplasize this point strongly because there has been much confusion and misinformation on this issue.

Private banks are not now lending any money to the Polish Government. Poland, however, is making some payments though by no means all that is due both to official creditors and commercial banks in the West. Thus, we have a situation of money flowing from the East to the West as opposed to the opposite situation which existed just a year ago, when banks and governments were putting money into Poland. By adhering to this policy of pressuring the Poles for repayment, while not putting any new money into Poland, we will perpetuate this situation. This hurts the Polish regime because this net outflow means that they are giving up more than they are getting and, as we noted above, they are getting no new credit now.

Would declaring a default bring more pressure on the Poles than that which now exists? We don't think so. In fact, declaring a default now would make things easier for the Polish regime. This sounds like an anomaly but in fact it is not. If the United States Government were to declare a default against the Polish Government, as some have argued, Poland, in essence, would be absolved from paying even those small amounts which they are now paying. Thus, they would be free to use their scarce foreign exchange either to pay other creditors--who might not declare default--or make new purchases. In this situation, the United States Government would, of course, be free to seek to attach Polish assets, of which there are virtually none. Even if there were any, they would be difficult to attach for reasons of sovereign immunity.

Thus, analyzing the situation in this way, the Government, like private banks, has determined that there is more chance of getting paid if we do not declare Poland in default but insist that they pay their indebtedness.

It has also been suggested that a declaration of default against the Poles could force the Soviets to pay the Polish obligations. We don't believe this is the case. It would in fact reduce the pressure that currently exists for the Soviet Union to help Poland in whatever way it can so that the Poles can continue to make some payments.

It has been alleged that any payments by the Commodity Credit Corporation to the commercial banks would in effect be "bailing out" the banks and letting the Poles "off the hook". This simply is not the case. The United States Government has a legal obligation to honor its guarantees on the loans which commercial banks made to Poland. This we are doing. When that process is complete, the guaranteed portion of Poland's debt will be owed to the United States Government, rather than the commercial banks. We can assure you that we will do everything possible to collect that debt. We can also assure you that this transfer will not, in any way, undermine or weaken the ability of the commercial banks to call a default on their many unguaranteed private bank loans to Poland which are not being paid on time. That they have not done so or show no intention of doing so denotes, as earlier stated, that they have come to the same conclusion as we--by an independent process--that it is better to collect some money than none. By insisting that this be done we preserve to the maximum extent possible our separate, but similar, interests in being repaid. At the same time, the United States Government is maintaining its objective of placing the maximum possible pressure on the Polish regime. We firmly believe that this policy is the most effective one.

Latin America

Question: Mr. Secretary, can you give the Committee an update on U.S. activities in response to President Lopez-Portillo's peace initiative in Central America?

Answer: Since President Lopez-Portillo made his proposals we have continued to work as before to find solutions to the problems of the Caribbean. We are hopeful that Nicaragua will enter into a substantive dialogue based upon our proposed eight points. We appreciate Mexico's helpful efforts in bringing about the dialogue.

Q: With regard to Cuba, Mr. Secretary, you were recently quoted as saying that President Castro was "anguishing" over whether he should ally himself with the United States instead of his paternalistic Soviet benefactors. I share your view. What steps is the United States prepared to take to provide an alternative to the Cubans?

A: The remarks attributed to me were "off the record". It is logical to assume that the Cuban leadership must be concerned about its dependence upon the Soviet Union, considering internal economic difficulties in Cuba and Cuba's increased isolation. However, the United States has not made a specific offer to Cuba. It is a matter of President Castro coming to the realization that he sincerely wants to rejoin the family of American nations. The choice has always been Castro's. We have not established any "conditions" or "bargaining positions" for improving US-Cuban relations our attitude continues to be governed by Cuba's international behavior. We would certainly consider an end to Cuban subversion in Latin America and withdrawal of Cuban troops from Angola and the Horn of Africa as significant indicators Cuba is prepared to play a more responsible international role. Further, we have not closed the door on dialog. President Reagan recently made clear, however, that if Castro took steps -- actions, not words -- to demonstrate he wants to play a more responsible world role, no one would welcome him more than the United States.

Question: Now that the elections in El Salvador have been completed, what actions will the U.S. take to ensure that land reform and human rights improvements will be aggressively pursued? What is our current attitude toward the prospects for a negotiated settlement or the advisability of negotiations between the government and the insurgents?

Answer: We are continuing to stress at all levels of the Salvadoran government and military the extreme importance we place on the continuation of human rights improvements and of the entire reform process including land reform.

The prospects for a negotiated settlement are difficult to measure so long as certain elements continue to prefer guerrilla war to elections. The March 28 election demonstrated that the mass of Salvadorans reject the guerrillas, and strongly support the democratic process. So do we, and we have been in favor of negotiations or discussions which would bring the democratic left parties currently allied with the guerrillas back into the ongoing electoral process. This has been our position consistently. What we have rejected has been the kind of negotiations which would lead to a distribution of national power over the heads of the people of El Salvador. Such negotiations would deprive the people of the ability to make their own choice.

Question: Mr. Secretary, I was dismayed to hear reports attributed to White House sources that the President had approved covert plans to destabilize the regime in Nicaragua. How do you respond to these reports? What impact do you feel they have on our ability to play a positive role in the region, such as is embodied in the Caribbean Basin Initiative?

The United States Government has a long-standing policy of not commenting on allegations of this sort. There are two Congressional committees which have been established to deal with such questions.

Nicaragua's neighbors are aware that it has been the Government of Nicaragua which has engaged in destabilization efforts in the region. Nicaragua has been actively supplying guerrillas in El Salvador with arms and promoting destabilization since late 1980. These actions by the Nicaraguan Government constitute a flagrant interference in the internal affairs of its neighbors. Nicaragua has sought to distract world attention from its covert activities by accusing the U.S. and its neighbors of what it has been doing.

Question: Mr. Secretary, what are the plans of the Administration with respect to Military assistance to the Caribbean basin generally and Honduras specifically? Do we not run the risk of polarizing some situations in Latin America by the premature introduction of arms and preclude meaningful negotiations which could take place under the Lopez-Portillo initiative?

Answer: About 80% — $106 million — of our military assistance program for the hemisphere (Foreign Military Sales and IMET grant training) is proposed for the Caribbean Basin countries. The programs are designed to provide the essential security framework within which economic and social development, supported by the Caribbean Basin Initiative, can proceed. They will enable friendly governments in the region to strengthen their professional military skills and their self defense capabilities to deal with current or potential threats to their security from foreign supported Marxist subversion.

The program we are proposing for Honduras enhances the capabilities of the Honduran armed forces to perform their legitimate military roles at a time of crisis and uncertainty in the region. Honduras is used by the insurgents as a transit route and a safe haven to support the current conflicts in El Salvador and Guatemala. It also is the country most threatened by the massive military buildup in Nicaragua. It therefore occupies a strategic position in the Central American equation. Honduras has tried, with the limited capabilities of its armed forces, to interdict the insurgent routes and has cooperated with its neighbors in curbing the use of its territory as a safe haven but needs additional transport and communication equipment as well as training to control its borders effectively.

We do not believe our security assistance programs risk polarizing the political situation in Latin America. The programs are modest -- Latin America accounts for only 2% of our global FY 83 FMS request -- nor are we introducing advanced or sophisticated weapons into the region. We are simply enabling friendly governments to defend themselves from foreign supported aggression. Our military assistance to Central America does not preclude meaningful negotiations with Nicaragua, which has received massive assistance from Cuba and its allies to carry out an armed forces buildup that is unprecedented in Central America. In fact, by enabling friendly countries in the region to defend themselves against foreign aggression, our programs contribute positively to the climate for meaningful discussions on the essential question of Nicaraguan support for the Marxist insurgency in El Salvador.

Nuclear Freeze

Question: Mr. Secretary, the hostility of the Administration reaction to the nationwide movement for a Nuclear Freeze has been disconcerting to many. Does the Administration question the origins of a mass expression of concern of this kind?

Answer: This Administration recognizes and shares the concern felt by many Americans over the risk of nuclear war and the prospects of arms competition between the U.S. and USSR. Indeed, in his radio address of April 17, the President clearly stated that understanding: "Today I know there are a great many people who are pointing to the unimaginable horror of nuclear war. I welcome that concern. Those who governed America throughout the nuclear age and we who govern it today have had to recognize that a nuclear war cannot be won and must never be fought. So to those who protest against nuclear war, I can only say I'm with you."

But while the Administration welcomes debate on these vital issues, it cannot support the proposals for a bilateral nuclear freeze at current levels for a number of reasons. In the first place, a freeze would leave the U.S. in a position of military disadvantage, and prevent us from taking steps to remedy the deficiencies in our forces which have resulted from the Soviet buildup of the past decade. In particular, the Soviet ability to threaten our land-based ICBMs, their preponderance in intermediate-range nuclear forces, and the momentum of their buildup have caused us concern. In the second place, by preserving these Soviet advantages, a freeze would give the Soviets little incentive to negotiate the reductions in nuclear arms we seek. Third, important aspects of a freeze would be virtually impossible to verify. We could not therefore be confident about Soviet compliance. Finally, a freeze would do nothing to reduce the number of nuclear weapons already in existence.

We believe that we can do better than a freeze. The President has outlined our proposals for negotiations on strategic arms reductions with the Soviet Union. Our approach to these negotiations will, we are confident, provide a sound basis for an agreement to substantially reduce the nuclear arms on both sides to equal and verifiable levels.

Question: The arms control policy of this Administration has been to urgently develop our nuclear and conventional arms in order that we can negotiate from strength and achieve substantial reductions. Isn't it true, however, Mr. Secretary, that by the time the negotiating stance is achieved, the number and sophistication of weapons deployed will increase dramatically, Soviet-American relations will continue to decline, and the continuity of negotiations will be broken, all of which make the job of reaching an agreement much more difficult? Are we not raising the stakes in what is already a highly expensive and dangerous game?

Answer: The policy of this Administration has been and remains to seek negotiations on strategic arms reductions with the Soviet Union to enhance stability and reduce the risk of war. Our force modernization program is necessary to maintain security and stability to give the Soviet Union incentives to reduce its nuclear arsenals. Given Soviet advantages in strategic forces, we must demonstrate our resolve to restore the strategic balance in order to convince them to negotiate the reductions in strategic weapons we seek. The history of our arms control efforts supports this view: during the past decade, the Soviets engaged in massive buildup of their nuclear forces while the U.S. was exercising restraint. The achievement of the ABM Treaty was largely due to the fact that the U.S. had embarked on an ABM program similar to that the Soviets had in place. The USSR only agreed to negotiate on intermediate-range nuclear forces when the U.S. and our allies made clear our intention to begin deployment of the U.S. Pershings IIs and GLCMs to counter the Soviet systems already in place.

Continued deferral or cancellation of our strategic modernization plans would convince the Soviets that they need to make no concessions on arms limitations because they could obtain their objectives without having to pay a negotiating price for them. In outlining his proposals for strategic arms reductions negotiations with the Soviet Union, the President called on Soviet leaders to join us in this historic undertaking to reduce nuclear weapons and promote peace and stability.

Question: What do you feel will be the impact, Mr. Secretary, in terms of proliferation of military weapons around the world of the U.S. decision to expand its arsenal now and hope for substantive negotiations later?

Answer: On Sunday, May 9, the President announced that we are seeking to begin negotiations on strategic arms reductions with the Soviet Union. He outlined a comprehensive approach to substantially reduce the strategic weapons on both sides to levels that are equal and verifiable. We believe this approach provides a realistic basis for a sound agreement that will enhance stability and serve as an example to nations around the world to limit proliferation of nuclear arms.

Chemical Weapons

Question: Mr. Secretary, today the full Appropriations Committee begins extensive hearings on funding proposals for Chemical Weapons. The familiar argument that is made for these weapons is that we need a chemical deterrent to deter Soviet chemical attack. What, in your opinion would an effective deterrent force be and what would be its cost to the American people?

Answer: The program and related costs set forth by the Administration in the Report to Congress on the United States Chemical Warfare Deterrence Program in March of 1982 in my opinion constitutes an adequate and effective U.S. chemical warfare deterrence capability. Adequate deterrence does not require us to match the large Soviet chemical warfare capability, nor are we attempting to do so. The United States' ultimate objective, of course, remains the conclusion of an effective and verifiable convention prohibiting chemical weapons development, production and stockpiling, and providing for the complete destruction of existing stocks of chemical weapons. Until such time, however, as the Soviets enable progress to be made toward this goal -- by demonstrating genuine readiness to negotiate and accept effective verification and compliance arrangements and by complying with their obligations under existing agreements -- the United States and its allies cannot afford to pay the price of being vulnerable to chemical attack by not rebuilding and maintaining an adequate and effective U.S. chemical warfare posture.

Question: During your recent service as NATO Commander, what was your impression of the military utility of chemical weapons versus conventional artillery rounds or bombs?

Answer: Chemical weapons are not a substitute for conventional weapons, nor is the reverse true. Each weapon has its own military function on the battlefield, and each provides its own contribution to the successful accomplishment of the military mission assigned. The primary purpose of chemical weapons in the U.S. military is to deter. If that purpose is successfully achieved, as it was in World War II, neither chemical weapons nor the bulky and cumbersome protective equipment will ever be used in war. The ability to retaliate in kind will assure that U.S. forces are not placed at a critical disadvantage by being forced to operate in chemical protective equipment while their opponents, with little or no threat of retaliation, operate without their protective garb. Finally, NATO relies on the full spectrum of defensive capabilities from conventional weapons up to strategic nuclear weapons. If chemical weapons are ever used against NATO forces, a credible chemical capability will provide an additional level of response for our national decision-making authority without lowering the nuclear threshold.

Question: What negotiations have taken place or assurances have been given by our European allies that they will remove their long-standing objective to stationing these weapons on their soil?

Answer: No negotiations have taken place with nor have any assurances been given by our European allies regarding the stationing of binary chemical munitions in Europe. As I informed Congress in my letter dated May 20, 1981, and as both the Department of State and the Department of Defense reiterated in their joint letter of May 8, 1982 to Senator Tower, "the United States has kept the Allies informed of our plans to modernize our chemical retaliatory capabilities ... at each step in the decision-making process." We have not consulted with the allies, however, about deployment, since the United States does not have plans at this time to deploy any of these weapons in any foreign country. The allied governments understand and accept this and have expressed no opposition to these plans or otherwise commented on the substance of the U.S. production decision. The allies also are aware that, should overseas deployment of these binary munitions be deemed necessary or desirable, the United States Government will consult fully with the nations involved prior to making any decision.

Question: Mr. Secretary, what impact does the U.S. reversal of policy in favor of chemical weapons production have on the possible proliferation of these weapons of mass destruction around the world? With the current usage of these weapons that you have called attention to, is the safer course condemnation of production?

Answer: Condemnation of the actual use of these weapons, in the form of one of the oldest existing arms control treaties, has proved insufficient to prevent their use in Afghanistan and Southeast Asia. To eliminate the problem it will be necessary to conclude a convention that will effectively and verifiably eliminate these weapons from the arsenals of all states. In the interim, the most effective way to prevent the use of chemical weapons is the ability to deter. World War II is an example where both sides possessed an offensive chemical capability, but neither side chose to use that capability because there was no advantage in doing so if the opponent could retaliate.

ADMINISTRATION OF FOREIGN AFFAIRS

STATEMENT OF RICHARD T. KENNEDY, UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF STATE

ACCOMPANIED BY:

ROGER B. FELDMAN, COMPTROLLER, DEPARTMENT OF STATE
THOMAS M. TRACY, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF STATE

PREPARED STATEMENT

Senator WEICKER. The next request is that of the Department of State. The amount requested is $1,890,258,000 and 16,166 positions, an increase of $135,602,000 and 214 positions over the 1982 appropriation. Included in the adjustment level for 1982 is the recently transmitted supplemental request of $48,883,000 for the increased security of U.S. personnel overseas. An increase of $135,602,000 in 1983 is primarily to cover built-in changes such as wage and price increases and a growing and constantly increasing workload.

Included are selective increases in such areas as substantive reporting. Appearing on behalf of the Department's total request is Richard T. Kennedy, Under Secretary for Management. Secretary Kennedy, why don't you introduce those that accompany you?

Your statement in its entirety will be placed in the record at this point.

[The statement follows:]

STATEMENT OF RICHARD. T. KENNEDY

Mr. Chairman and members of the Committee, it is indeed a pleasure to appear before you to testify to the Department of State's request for 1982 supplemental appropriations and the budget for 1983. In the course of my first full year as Under Secretary for Management, we have operated within a restrictive resource environment in full concert with the President's Economic Recovery Program.

Secretary Haig has clearly outlined the policy perspective that has driven the formulation of this budget. Allow me to elaborate on the more detailed aspects of our request.

As the Secretary stated, the Department fully appreciates the need for fiscal constraint -- and it has done and will continue to do its part. We firmly believe, however, that budget decisions cannot be made in a policy vacuum; this is particularly so as the Department plays a key role in developing and implementing the policies essential to our national security. This reality notwithstanding, the Department has had to assume and discharge additional foreign policy functions in recent years within, at best, a constant, and in many instances diminishing resource base.

Budget cuts across the government generally have been made possible by reductions in programs - such as grants-in-aid, loans, and research. Unlike other cabinet-level departments, however, we do not administer major programs of this kind. On the contrary, our budget covers primarily the operating costs for the people and facilities necessary to conduct foreign affairs.

Our primary resource is people. The ability to function effectively and achieve our foreign policy objectives depends almost entirely on U.S. personnel -- but budget reductions often impact directly on this critical resource. Compared with other cabinet agencies, State has the fewest American direct hire employees and the smallest budget outlays.

Operational funding in the 1983 budget is approximately equal in constant dollars to the 1974 appropriations. In other words, then, while resources have been held to a minimum, workload in terms of new and enlarged responsibilities has increased over this same period. For example:

-- We are conducting bilateral relations with 28 more countries;

-- Consular workload is up over 300 percent; and

-- Communications traffic has increased over 200 percent.

These and other added responsibilities have been accomplished without significant increases in direct hire personnel through substantial reprogramming and automation.

In recognizing the vital role our diplomatic efforts play in preserving our national security, the President is seeking a modest increase in support for the Department for 1983. Our request embodies a number of investments in future savings as well as some limited growth in vital substantive areas. For too long, this Department has had to postpone needed investment in our people, our property, and the tools of our business because of continuing budgetary pressures and the impact of high inflation overseas. We can no longer afford such postponements. The cost in the long run will be far greater than if we act now -- the question is not whether these investments must be made but only when.

As Secretary Haig mentioned, our foreign policy goals are to provide a broad framework to foster respect for individual liberty, preserve peace, increase security, and promote development. To meet these objectives, we must have the necessary resources to pursue our foreign policy initiatives, including programs of military and developmental aid.

Total Budget Request

For 1983, the Department is requesting appropriations totaling $1,890,258,000. This represents an increase of $135,602,000 over the 1982 appropriations to date, after including proposed supplementals totaling 17 new positions and $83,816,000.

1982 Supplemental Appropriations

The supplemental appropriations proposed for 1982 are for urgent unbudgeted requirements in the following areas:

-- $48.9 million for "no-year" funding in the Salaries and Expenses and Foreign Buildings appropriations to meet urgently needed security requirements overseas that are beyond the resource capabilities of our ongoing security programs. This recently transmitted supplemental request will expand vital protective security, public access controls and improve communications. We propose funding this effort primarily through the transfer of $40 million available from the Department's Migration and Refugee Assistance appropriation;

-- $22.1 million to cover costs associated with the October 1981 Federal salary increase and the lifting of the executive pay cap;

-- $4.6 million for an additional payment to the Foreign Service Retirement and Disability Fund to cover unfunded liabilities resulting from the recent Federal salary increases;

-- $244,000 for non-controllable increases in salaries for Americans employed by the American Institute in Taiwan in line with the October salary increase;

-- $4.5 million for the legal costs of representing nearly 4,000 claims by U.S. citizens to the U.S.-Iran Claims Tribunal. These claims, involving tens of billions of dollars, arose because of debts, contracts, investments and joint ventures breached in the wake of the Iranian revolution;

-- $1.7 million to ensure that U.S. interests are properly presented in the dispute with Canada over delineation of the Gulf of Maine boundary;

-- $1.5 million for the most urgently needed renovations to the Blair House; and

-- $330,000 to establish the essential liaison function in Washington D.C. with the Multinational Force and Observers established to supervise implementation of the Egyptian Israeli Treaty of Peace in the Sinai.

Major Components of the 1983 Budget

After accounting for these supplemental appropriations, the 1983 request, as I indicated, reflects a net increase of $135.6 million and 214 positions over 1982.

These increases are reflected among six major components:

First, in the Salaries and Expenses appropriation request, a $69.5 million net increase is requested primarily to cover uncontrollable overseas wage and price inflation, to meet increased passport and consular workloads, and to make selective investments in future savings -- people, property, and technical systems -- to strengthen the Department's capability to conduct the foreign affairs of the United States.

Second, we are proposing a net decrease of $13.6 million for the regular Foreign Buildings appropriation. This reduction can be attributed to non-recurring costs in 1982 for the Foreign Buildings portion of the overseas security supplemental. Also, a number of construction projects will be completed in 1982 and not require funding in 1983. On the other hand, we have budgeted within this account $51.8 million for the office building, ambassador's residence and Marine security guard quarters as the first phase in construction of the complex in Riyadh. As the Secretary stated, not only is the Riyadh Project imperative to avoid disrupting relations between the U.S. and our Saudi allies, but further delaying construction of the chancery and ambassador's residence to 1984 will increase total costs by some $7 million because of inflation and rental costs.

Within the Foreign Buildings budget, we are pursuing a number of long-range initiatives to ensure value and improve the utility of our property holdings abroad. The staff housing complex in Bonn is being renovated to replace seriously deteriorated heating and hot water systems, to make it generally more habitable and energy efficient. We must proceed immediately to rehabilitate this valuable housing complex, which originally cost $16 million and which is worth $350 million today. In other instances, we are increasing FBO programs for preventive maintenance and fire safety in our properties around the world.

Third, the budget requests a net increase of $13.5 million in the Payment to the Foreign Service Retirement and Disability Fund to meet non-controllable Foreign Service annuity requirements.

Fourth, a $13.5 million increase is requested in the Buying Power Maintenance appropriation to provide the Secretary additional stand-by authority to maintain Congressionally approved operations in 16 OECD countries in the event of foreign exchange fluctuation losses or unbudgeted overseas wage and price increases. Conversely, funds will be transferred to this appropriation from surpluses generated by exchange rate gains or lower than anticipated inflation.

Fifth, a net increase of $40.3 million is requested in the Contributions to the International Organizations appropriation for calendar year 1982 assessments deferred to fiscal year 1983, and increased assessments to international organizations. However, this appropriation request is predicated on the deferral of calendar year 1983 assessments for 13 international organizations into fiscal year 1984. As the Committee will recall, this deferral is part of a multi-year process whereby the United States will no longer pay calendar year annual assessed contributions to certain international organizations in the same fiscal year. Instead, the payments to these organizations will ultimately be made in the fourth quarter of the calendar year, which is the first quarter of the subsequent fiscal year. Action taken by the Executive Branch and the Congress has shortened the period to accomplish this deferral from four years, as first proposed, to two and one-half years. The 1983 budget request reflects completion of this process.

In sum, a total of $444 million will have been deferred over this period. As a consequence, we will be on a new payment schedule in 1984. Current estimates would suggest that an increase of over $100 million will be required for this appropriation in fiscal year 1984 as we undertake full payment of these calendar year assessed contributions in the next fiscal year.

Sixth, a $13.4 million budget amendment has recently been requested for the Contributions to International Peacekeeping Activities appropriation for the U.S. share of increased costs for expanding the U.N. peacekeeping force in Lebanon from 6,000 to 7,000 troops.

Ambassador Kirkpatrick and Deputy Assistant Secretary Edelman will address these latter two items and other aspects of the International Organizations and Conferences budget.

A table has been submitted which details changes to the 1983 request and indicates all changes between 1982 and 1983.

Overall Position Request

Turning to staffing, the Department's total 1983 request is for 16,166 positions, an increase of 214 over 1982. The 1983 total is still 234 positions less than we had in 1981 and 576 positions less than in 1978.

-- 106 (or almost 50 percent) of the new positions are required to meet non-controllable consular and passport workload increases;

We are also requesting:

-- 119 positions for program increases to:

- strengthen political and economic reporting and analysis;
- expand professional development training;
- improve administrative staff functions;
- upgrade communications and information systems; and
- improve efforts to combat waste, fraud and mismanagement.

There has been a decrease of 11 positions in the International Boundary and Water Commission.

The Department is committed to assuring effective and efficient use of human resources. For example, in conjunction with implementing the Foreign Service Act of 1980, we have committed ourselves to a meaningful professional development program, the newest aspects of which I will describe later. That program also will be linked with officer assignment plans. In short, we have recognized the importance of investing in our most important resource -- people.

Salaries and Expenses

Mr. Chairman, I would now like to discuss the Salaries and Expenses appropriation, which provides the basic operating budget of the Department and comprises over one-half of our total appropriations request.

The amount requested for Salaries and Expenses for fiscal year 1983 is $1,021,537,000, a net increase of $69,477,000 after including supplemental requirements for 1982 and taking into account non-recurring decreases of $38,908,000 -- primarily $31,228,000 for non-recurring costs of the recently transmitted security supplemental.

About 52 percent of the Salaries and Expenses appropriation pays for the salaries, benefits, and allowances of our American and Foreign Service National employees. The remaining 48 percent is for operating expenses, such as: office space, housing, security, communications and administrative support necessary to conduct U.S. foreign policy.

To place the Salaries and Expenses appropriation in a larger historical context, I would point out again that when viewed in constant dollars, this appropriation will be at about the same level it was ten years ago. Political and economic reporting requirements, consular and passport workload, security, communications and administrative responsibilities, however, have increased significantly over that decade.

For the Salaries and Expenses appropriation, our original 1983 budget requested a net increase of $76.6 million for non-controllable costs over which the Department has no control under existing law and $24.1 million for program increases.

Let me first discuss the requested non-controllable increases, which fall primarily into three categories -- wage, price and workload increases. In this context, I would like to emphasize that the additional $76.6 million is required to maintain the current levels of our domestic and overseas operations. It is essential that these funds be provided. To do otherwise would dangerously undercut our ability to meet foreign policy objectives. If we were required to absorb these costs without additional budgetary resources, major changes in our operating programs would be needed -- affecting as many as 2,000 positions, perhaps 30 of our overseas posts, and a substantial measure of our critical activities to enhance the security of our personnel, property, and information abroad.

The budget request includes $25.8 million to cover additional salary costs for both American and Foreign Service National employees. For U.S. personnel, pay increases enacted in the past year must be funded. For Foreign Service National employees, the Department has a legal and diplomatic obligation to meet certain salary increases as well as a vital need to provide competitive compensation so that we can attract and retain high quality personnel.

For overseas and domestic price increases we are requesting $39.6 million. Inflationary forces are affecting every aspect of the Department's overseas operations, including transportation, communications, utilities, and contractual services. Consequently, we must budget amounts to ensure that we can meet these costs without having to reduce ongoing priority programs.

We need 106 new positions and $6.1 million to meet responsibilities assigned by law to provide timely U.S. citizen passport issuance and worldwide consular services. A significant element of the workload increase stems from mounting non-immigrant visa requests abroad. The trends suggest the need for prompt action on the selective non-immigrant visa waiver proposal, which is under consideration in the Congress now.

The remaining $5.1 million in the non-controllable increase category applies to such items as increased payments to the General Services Administration for the rental and service of our building space, security programs, and information systems.

Operational programs within the Salaries and Expenses appropriation reflect increases totalling $24.1 million and 119 positions which are accounted for by two changes:

-- Key personnel and program increases in important areas that have been neglected for a number of years, much to the detriment of general policy objectives; and

-- Investments in future savings. There are specific areas in which the Department plans to commit resources to achieve long-term savings which will ultimately more than return the initial investment.

In the area of key personnel and program increases, the following efforts totaling $6.9 million and 75 positions will help ensure that the Department is capable of meeting its substantive responsibilities:

-- $3.3 million and 33 positions are budgeted for strengthened political and economic reporting and analysis, primarily at key posts abroad. This will continue a multi-year effort begun in 1980 with this Committee's assistance, which so far has redirected the assignment of over one hundred positions to revitalize this critical foreign affairs function following a long period of resource reductions.

-- $1.2 million and 25 new student positions are budgeted to continue upgrading professional development pursuant to the Foreign Service Act of 1980. Training is an investment in our most important resource -- people. We must make the investment in our people as the key to the future. Without investing now, we will not have the people and skills needed five to ten years hence. Our focus must be on the most effective training we can devise, based on the best assessment of projected Department needs.

These new resources, in addition to 50 positions reprogrammed from existing resources, will enable us to make the recently implemented mid-level training program a mandatory requirement for all newly tenured Foreign Service officers. The first class just completed the mid-level course, and the results are very positive. The twenty week course provides specific instruction in a cross-section of career areas, including political and economic affairs, administration and consular work. This program is an integral part of efforts to invest in advanced training at the point in an officer's career when it will significantly strengthen future performance.

-- $2.4 million and 17 positions are also included to strengthen the Department's administrative functions, primarily in underdeveloped countries, where administrative resources are insufficient to meet growing workload requirements.

We are requesting increases in three other areas for investments in future savings, totaling $17.2 million and 44 positions:

-- $14.5 million and 30 positions to upgrade worldwide communications and information systems primarily through:

- replacing obsolete telecommunications equipment, providing additional communicator positions in key areas, improving computer security, and increasing access to intelligence community data bases.

- continuing installation of minicomputers at Foreign Service posts and purchasing word processing equipment for improving the efficiency and effectiveness of overseas operations; and

- replacing two central computers which do not have sufficient capacity to handle growing workloads;

-- $2.1 million and 3 positions are budgeted to increase productivity and accuracy in the consular function primarily by strengthening the Automated Visa Lookout System (designed to prevent visa fraud) and accelerating installation of immigrant and non-immigrant visa systems at overseas posts.

-- $600,000 and 11 positions are also included to improve our ability to prevent, detect, and correct waste, fraud, and mismanagement -- a program of particular priority within the Administration.

Financial Management System

Having discussed Salaries and Expenses, I would now like to highlight one key development in the Office of the Under Secretary for Management. Specifically, I am referring to continued programming, installation and implementation of the new worldwide Financial Management System (FMS).

As you know, Mr. Chairman, FMS development began two years ago with the full support of this Committee and has progressed steadily since that time. The investment in this new system will establish crucial improvements regarding all aspects of financial management, control, and reporting. Dynamic in scope, FMS is designed to provide managers at all levels with timely and relevant cost and program data upon which to make intelligent decisions on resource allocation; to integrate all Departmental financial and budgetary data; to provide a cost basis for charging serviced agencies for reimbursable support provided; and meet established principles, standards and recommendations made by the General Accounting Office. After more than a year as Under Secretary for Management, I can confirm the value of this financial management improvement, and I can also confirm to you the Secretary's strong support for full implementation of the FMS.

Mr. Chairman, I would like to take a moment to highlight important considerations underlying the needs we have and the requests we are making for security, telecommunications and the foreign buildings program.

Security

First let me comment on the security program. Mr. Chairman, I do not have to remind the Committee that this is an increasingly disorderly, threatening, and dangerous world. International terrorism, as events of the past few months have shown, is ever more serious and impinges ever more directly on the lives and even the work of our people abroad. It is imperative that our security efforts be so devised as to be tailored to current needs and flexible enough to meet changing requirements. It is precisely this type of program we are forging. Our request before you is designed not only to provide protection but also to assure our people living in harsh environments that their lives and the full realization of their capabilities will be safeguarded.

As you know, with the support of this Committee, the Department has been working diligently in efforts to enhance the physical security of its embassies abroad, particularly against the threat of mob violence. The original budgets for 1982 and 1983 each included $25 million for that purpose and we are proceeding with these efforts.

However, with the recent dramatic increase in terrorism aimed at American personnel and installations abroad, it is essential that we act immediately to upgrade our protective security capability. As I described earlier, we are requesting $48.9 million supplemental funding for 1982 on a no-year basis to enable the Department to develop and implement a number of countermeasures to address this urgent problem.

Telecommunications

The critical role of telecommunications in linking the Department and its hundreds of posts throughout the world almost goes without saying. Indeed, our telecommunications system is the spinal cord of the Department's operations. Our business is analyzing data, formulating policy, and executing substantive and administrative activities based on global information. We must have the ability to communicate data and information swiftly and accurately.

The 1983 budget before you would:

-- increase the number of overseas communicators to maintain effective operations; and

-- replace antiquated equipment, much of which is twenty years old.

This is but a single step in a long term effort aimed at improved efficiency and performance through modernization.

In a similar way, we are moving towards increased efficiency in the Department's computer and word processing systems. Because the Department must "do more with less", we are emphasizing increased automation in all aspects of the Department's operations. Consequently, there is now a coordinator in my office to establish policies and priorities for the effective allocation of data processing and information systems resources. We must ensure that computer and word processing systems are comprehensively planned, fully compatible, and satisfy the requirements of users throughout the Department.

Foreign Buildings Program

Lastly, let me mention the foreign buildings program. Under this program, the Department of State administers $3.5 billion worth of offices and housing owned and used by our missions abroad. This is real estate management in its most important sense, and we are stewards on behalf of the taxpayer and the nation of an enormous investment. We are fully aware of our responsibility to protect this investment.

We have two functions to perform in this regard. We first must find wise ways to invest for the long run. In particular, we must continue to replace leases with owned properties wherever economic and other realities indicate that it is sound management judgement to do so. Also, we must properly maintain our current holdings to ensure and protect the investments we have already made and to enhance the utility of our property.

A prime example of this need is the Bonn property of great intrinsic value which I previously mentioned. It is our responsibility to assure that our property shall not fall into disrepair. To this end, the Department will vigorously pursue regular maintenance, improve energy efficiency where possible, and restore major properties where necessary.

Mr. Chairman, this concludes my prepared statement.

INTRODUCTION OF ASSOCIATES

Senator WEICKER. You might proceed to summarize it.

Mr. KENNEDY. Thank you, Senator.

It is a distinct pleasure to be with you. On my right, Assistant Secretary Tracy, the Assistant Secretary for Administration; on my left, Mr. Feldman, the Comptroller. Others are here who might provide specific detail on individual programmatic areas should that be of interest to you.

GENERAL STATEMENT

Mr. Chairman, I would like to summarize my testimony and during that process elaborate on the more detailed aspects of the request which Secretary Haig generally outlined for you.

For 1983, we are requesting appropriations totaling $1,890,258,000—an increase of $135,602,000 over the 1982 appropriations to date, after including the supplementals which have been put forward which would include the 17 positions and $83,816,000 above 1982.

1982 SUPPLEMENTAL REQUIREMENTS

Let me just briefly summarize the 1982 supplemental appropriations. The supplemental appropriations proposed for 1982 are for urgent unbudgeted requirements in the following areas: First, a recently submitted $48.9 million request for "no-year" funding in the salaries and expenses and foreign buildings appropriations to meet urgently needed protective security requirements for U.S. officials overseas; relating to the issues which Secretary Haig mentioned, our concern for security of our personnel; a $22.1 million increase to cover the 1981 Federal salary increase and the lifting of the Executive pay cap; a $4.6 million increase for additional payment to the Foreign Service retirement and disability fund; $244,000 in salary increases for Americans employed by the American Institute in Taiwan; $4.5 million for the legal costs of representing nearly 4,000 claims by U.S. citizens for the United States-Iran Claims Tribunal; $1.7 million to insure that the U.S. interests are properly presented in the dispute with Canada over the delineation of the gulf of Maine boundary; $1.5 million for the most urgently needed renovations to the Blair House and $330,000 to establish the liaison function in Washington required for the support of the multinational force and observers.

After accounting for these supplemental appropriations, the 1983 request reflects a net increase of $135.6 million and 214 positions over that of 1982.

MAJOR INCREASES

These increases are reflected in six major components: First, in the salaries and expenses appropriation, a $69.5 million net increase is requested primarily to cover overseas wage and price inflation, to meet increased passport and consular workloads and to make selective investments in future savings.

Second, we are proposing a net decrease of $13.6 million for the regular foreign buildings appropriation. This reduction is attributed to nonrecurring costs for the overseas security supplemental and a number of construction projects which will actually be completed in 1982.

On the other hand, we have budgeted in 1983 for $51.8 million for the first phase in the construction of the complex in Riyadh, which Secretary Haig referred to.

Third, our budget requests a net increase of $13.5 million in the payment to the Foreign Service retirement and disability fund to meet noncontrollable Foreign Service annuity requirements.

Fourth, a $13.5 million increase is being requested in the buying power maintenance appropriation to provide additional standby authority to maintain congressionally approved operations in 16 OECD countries in the event of foreign exchange or overseas wage and price fluctuations.

Fifth, a net increase of $40.3 million is requested in the contributions to the international organizations appropriation for calendar year 1982 assessments deferred to fiscal year 1983 and increased assessments to international organizations. This request is predicated on the deferral of calendar year 1982 assessments for 13 international organizations into fiscal year 1984.

Sixth and last, a $13.4 million budget amendment has been requested for the contributions for the international peacekeeping activities appropriation for increased costs for expanding the U.N. peacekeeping force in Lebanon.

STAFFING

Turning to staffing, the Department's total 1983 request is for 16,166 positions, an increase of 214 over 1982. This reflects: 106 positions required to meet noncontrollable consular and passport workload increases, 119 additional positions for important program increases and 11 positions reduced in the International Boundary and Water Commission.

SALARIES AND EXPENSES

Let me now turn, Mr. Chairman, briefly to discuss the salaries and expenses appropriation for which we have requested $1,021,537,000 in fiscal year 1983.

Our original budget requested a net increase of $76.6 million for so-called noncontrollable costs over which the Department really has no control under existing law—there are requirements dictated by law—and $24.1 million for program increases.

Let me first emphasize that the additional $76.6 million is required to maintain the current levels of our domestic and overseas operations including: $25.8 million to cover additional salary costs for both American and Foreign Service national employees; $39.6 million for overseas and domestic price increases; 106 new positions and $6.1 million to provide passport issuance and worldwide consular services; and $5.1 million for such items as increased payments to the General Services Administration for the rental and services of our buildings, security programs, and information systems.

Operational programs within the salaries and expenses appropriation reflect increases totaling $24.1 million and 119 positions accounted for in six areas: $3.3 million and 33 positions for strengthened political and economic reporting and analysis, primarily at key posts abroad; $1.2 million and 25 new positions are budgeted to continue the upgrading of professional development pursuant to the Foreign Service Act of 1980; $2.4 million and 17 positions requested to strengthen the Department's administrative functions, primarily in support of our activity in underdeveloped countries; $14.5 million and 30 positions to upgrade worldwide communications and information systems; $2.1 million and 3 positions to increase productivity and accuracy in the consular function, and $600,000 and 11 positions to improve our ability to prevent and correct waste, fraud, and mismanagement throughout the Department.

CONSIDERATION OF SECURITY, TELECOMMUNICATIONS, AND FOREIGN BUILDINGS PROGRAMS

Let me take just a moment, Mr. Chairman, now to highlight the important considerations in our requests for security, telecommunications, and the foreign buildings program.

As to security, as the Secretary noted, we face an increasingly dangerous world. International terrorism impinges directly on the lives of our people abroad. Our security efforts must meet current needs yet remain flexible enough to meet changing requirements. We are forging just this type of program.

The original budgets for 1982 and 1983 included $25 million to enhance the security of our embassies against the threat of mob violence. However, the recent increases in terrorism aimed at American personnel abroad requires supplemental funding for 1982 of $48.9 million on a no-year basis to enable us to implement a number of countermeasures addressing this urgent problem.

Our telecommunications system is the spinal cord of the Department. We must be able to communicate information swiftly and accurately.

The 1983 budget before you would: Increase the number of overseas communicators to maintain effective operations; and replace antiquated equipment, much of which is 20 years old.

This is but a single step in a long-term effort aimed at improved efficiency and performance through modernization.

We are also moving toward increased efficiency in our computer and word-processing systems as a means of doing more with less. Consequently, there is now a coordinator in my own office to establish priorities for the effective allocation of data processing and information systems overseas and to assure that there is no ultimate, no unfortunate, no improper redundancy.

Foreign buildings programs are a device through which we administer a $3.5 billion investment in offices and housing owned and to be used by our missions abroad. It is imperative that we protect this investment. First, we must continue to replace leases with owned properties wherever sound judgment dictates, and we must properly maintain our current holdings to insure the investments we have already made. That is the essence of the program.

Mr. Chairman, this concludes my prepared statement. I am prepared to respond to any questions you may have.

IMPACT OF FREEZING 1983 REQUEST AT 1982 LEVEL

Senator WEICKER. Apparently, the negotiations on the overall 1983 budget have developed a consensus to freeze spending of all but the Department of Defense to fiscal 1982 levels. What would be the impact of such a freeze in the State Department?

Mr. KENNEDY. It would have a very serious impact indeed, sir. Let me reflect a bit on history, if I may.

For over 10 years, the Department has been operated in a way which I think is reflective of three curves, which I keep visualizing: One, an almost constant level, and that is the dollar resources in real terms with a slight upturn over the 10 years, but not very much.

The second curve is one which looks much more like that—indicating a downward curve—and that is the number of personnel authorized to the Department and supported by the budget resources provided, a constant downturn.

The other curve is quite the opposite. It is going this way—indicating an upward curve. It is an increase in the workload performed by the Department over those years; this has generated a substantial increase in the number of positions abroad. There is an enormous increase, 300 percent is my recollection, in consular workload over the past 10 years, mandated, of course.

We must perform this work. We cannot fail to provide these services to American citizens.

We, at the same time, find ourselves assuming greater and greater responsibilities for the services to other agencies abroad. We represent, Mr. Chairman, only 20 percent of the Americans under the direction of Ambassadors abroad. The Department represents only 20 percent, but we provide services, again, in my judgment, properly, and certainly consistent with congressional views and wishes, to all of those agencies. Those numbers have been going up, but our ability has been going down.

The consequence has been that over these years, the Department has had smaller and smaller amounts of its resources available to do its core jobs of reporting and analysis and representing the United States abroad. Our effort has been to try to turn that around and face it in what we believe to be the right direction.

The President has indicated that in his judgment, the Department's role is an absolutely integral part of the whole national security establishment. I am saying, sir, that a reduction of that kind or a limitation of that kind would have nothing less than a drastic effect on our ability to do our job.

SECURITY PROGRAMS

Senator WEICKER. On diplomatic personnel, they found themselves to be targets of personal attack at an increasing rate in recent years. OMB just submitted a $49 million supplemental to deal with part of the problem. Would you indicate what these funds would be used for and also what security is provided our personnel by host governments?

Mr. KENNEDY. There are two aspects of the total security enhancement program. The security enhancement program that was in being a year ago and had been in being for about 2 years had been developed over a considerable period of time facing the problems which had existed in the light of our experiences in Islamabad, in Iran, in Tripoli and Italy, where mob violence had caused dramatic dangers to the lives of our people, significant damage to our facilities, potential serious losses and, in some cases, actual serious losses from a security point of view.

Programs were developed to protect against those things. Those programs are underway. About a year ago, the concern for international terrorism, and, interestingly, in new areas of the world, heightened substantially. We undertook, then, to see what steps needed to be taken. We are talking about, now, moving to new programs in addition to those that were already underway. That is the $49 million supplemental program which will provide the kinds of protection that people will need: Access controls at embassies—particularly in Western Europe—where this was not really thought necessary in the past—provision of armored vehicles to protect not only Ambassadors but other personnel, provision of additional guard services, including, in some cases, guard services which provide moving patrols and the like to supplement the kinds of assistance which local governments typically provide, and to provide radio equipment in order that individuals living in rather dispersed situations are able to communicate with colleagues and with the central system at the embassy so that more alerting can be accomplished and so relationships with police can be maintained on a more timely basis. It is that type of thing that is in process.

What do foreign governments provide? As a general rule, they are quite responsive, indeed, and provide assistance in the way of roving patrols, in some cases, stationary posts; they provide intelligence information, communicated to us when they are aware of threats and responding on their own side and alerting us to be responsive on ours.

As I say, as a general proposition, they are helpful, but there are limits beyond which they, as well as we, cannot go. It is a very expensive proposition.

I would have to say that I think they certainly are as responsive as we are, and in some cases I would have to say more so.

1982 SECURITY SUPPLEMENTAL

Senator WEICKER. The 1982 supplementals for emergency security protection for U.S. personnel in missions overseas are to be largely funded by transfers from the migration and refugee assistance appropriation.

Is the $40 million to be transferred from refugee and migration assistance a true saving in that account?

Mr. KENNEDY. The answer is yes, sir, in the sense that it is our estimate, based on the actual flows of refugees, that these funds will not be needed in this year to meet those flows; that the remaining funds available in the total appropriation will be adequate.

Senator WEICKER. As you know, migration and refugee assistance is under the jurisdiction of another subcommittee. Has the Department secured the concurrence of the leadership of that subcommittee for the transfer of $40 million?

Mr. KENNEDY. We have not received that.

Senator WEICKER. Do you object to a rescission?

Mr. KENNEDY. A rescission, of course, would mean that there would have to be an accompanying additional appropriation of $40 million.

Now, from our perspective, Senator, that wouldn't matter except that if there is at the bottom a fixed number, we would hate to see—I would have to say we simply couldn't stand it. It would be very, very damaging indeed if this resulted in what would have the effect of being a reduction in amounts otherwise available to the Department.

In other words, if there were a net increase of $40 million to offset, fine; but if it would turn out to be the effect of reducing the amounts available to the Department in other areas, we simply couldn't stand that.

RIYADH COMPLEX

Senator WEICKER. The Department budget includes $51,800,000 for the transfer of the Ambassador's residence to Riyadh. No funds are requested for staff housing.

When does the Saudi Arabian Governnent officially open the foreign ministry in Riyadh?

Mr. KENNEDY. We anticipate that to occur in 1983. We plan that in 1984, we will request $40 million for staff housing.

Senator WEICKER. Since an embassy will not be constructed by that time, what does the Department propose with respect to office space and residential quarters?

Mr. KENNEDY. We are leasing now. We will have to continue to do so until we can get our own facilities. As the Secretary mentioned, further delay means another $7 million in costs, largely attributable to those kinds of costs such as leasing which will have to be borne.

Senator WEICKER. What accounts for the $10 million increase in overall costs over the 1982 request?

Mr. KENNEDY. First, some of those costs, that is, costs that have already been borne; and, second, the effect of inflation. Inflation is another extremely high cost in that area.

So delay is costing us in two ways, as it has now for a couple of years: Each year of delay means many millions of dollars sunk which we believe should have been invested. It is because of the cost of inflation and it is because of the cost of obtaining alternate quarters.

Senator WEICKER. We have heard from American contractors that they are unfairly disadvantaged on bidding in the Saudi project by cheap Korean labor. Has the Department looked at this matter and concluded that it is not feasible to give American contractors preference on this project?

Mr. KENNEDY. We have not taken any decision whatever at this juncture.

Let me say that we are making certain that American contractors are given every reasonable opportunity to bid and that their bids will be given the most serious consideration.

Whether this is preferential consideration or not, I will leave to others to judge. I think it is a practical situation.

The fact that American contractors, were they to receive the bid, would, of course, be returning to the Treasury some portion of their bid cost in terms of taxes will be taken into account in judging their bids.

BLAIR HOUSE RENOVATIONS

Senator WEICKER. There are other questions I will have submitted for a response to the record.

The $1.5 million supplemental for repairs to the Blair House, my understanding is that potential costs may be considerably higher, up to $10 million. Specifically, what is the $1.5 million to be used for?

Mr. KENNEDY. For the most urgent and needed repairs rather than long-term renovations; for example, we need to replace the roof, which does need prompt attention.

There are leaks which could ultimately be damaging to the structure. The electrical system needs some work. A lot of these things are very old. The last renovation was over 35 years ago. The electrical system needs work; the plumbing needs work, and the roof needs substantial repair or total replacement.

Some of that money may also, then, be used to take a look at some drawings, plans for more extensive renovation if and when those could be undertaken in the future.

Also, let me add that the fire safety systems need upgrading. They will be included in the work done with this $1.5 million.

OTHER INFORMATION REQUESTED

Senator WEICKER. Senator Hollings has questions on the Asia Foundation which I will submit for response to the record.

For the record, I wish you to provide the committee with the following information for each of the last 10 years: The total employment of American and foreign nationals; total appropriation in constant dollars; number of posts, the number of non-State Department personnel assigned abroad.

Mr. KENNEDY. I will be glad to do so, sir.

[The information follows:]

DEPARTMENT OF STATE FULL-TIME PERMANENT ACTUAL EMPLOYMENT—ALL APPROPRIATIONS

(Direct and reimbursed)

	Americans	Foreign Service nationals	Total
June 30:			
1972	12,263	10,483	22,746
1973	12,148	10,464	22,612
1974	12,171	10,502	22,673
1975	12,294	10,077	22,371
Sept. 30:			
1976	12,409	10,158	22,567
1977	12,455	10,164	22,619
1978	12,497	10,183	22,680
1979	12,412	9,718	22,130
1980	12,674	9,374	22,048
1981	13,012	9,283	22,295
1982 (estimate)	12,714	9,208	21,922
Jan. 31, 1982	13,031	9,267	22,298

ALL APPROPRIATIONS IN CONSTANT DOLLARS

[Dollars in millions]

Year	Actual appropriation	Constant dollars
1974	$662.1	$662.1
1975	729.1	670.6
1976	838.5	757.5
1977	1,066.5	780.8
1978	1,274.9	887.7
1979	1,346.8	851.6
1980	1,400.5	762.4
1981	1,502.5	685.9
1982 estimate	1,754.7	779.0
1983 estimate	1,890.3	677.5

Following is the status of Foreign Service posts and special missions each fiscal year for the last 10 years:

	Foreign Service posts[1]	Special missions[2]	Total
Fiscal year:			
1972	258	9	267
1973	258	9	267
1974	266	9	275
1975	267	9	276
1976	261	10	271
1977	265	10	275
1978	263	10	273
1979	270	10	280
1980	268	10	278
1981	272	10	282
1982 estimate	274	10	284
1983 estimate	274	10	284

[1] Foreign Service posts consist of embassies, consulates general, consulates, embassy branch offices, liaison offices, U.S. interest sections, and consular agencies.

[2] Special missions are located in Berlin, Brussels (2), Geneva, Montreal, Nairobi, Paris (2), Rome, and Vienna.

Non-State overseas personnel

1971	171,921
1972	135,525
1973	118,295
1974	120,192
1975	109,683
1976	108,299
1977	107,875
1978	110,937
1979	107,137
1980	106,786
1981	110,467

Sources.—Annual Report, CSC (June 30 and September 30) through 1978; Annual Reports, OPM, (fiscal year 1979); Monthly Employment Reports, OPM, (September 1980 and September 1981).

ADDITIONAL COMMITTEE QUESTIONS

Senator Weicker. Let me say this in conclusion. It relates to the first question that I asked: I think you had better maintain a pretty close liaison with Claudia and see that we might very well be running into the type of freeze which I referred to. It would be helpful to know where your priorities lay if that happens.

Sometimes these situations arise—I, quite frankly, am very sympathetic to the Department's requests, with the desire not to cut them off, but we might be put into that box.

I would like to know where all your priorities are.

Mr. Kennedy. We certainly will tell you.

Senator Weicker. Thank you, very much.

Mr. Kennedy. Thank you. Thank you, very much, Senator.

Senator Weicker. Thank you again, Mr. Secretary.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

Supplemental for Security

Question: There is another aspect of the security problem -- which is security we provide for diplomats in the U.S. Is this being reexamined in light of the attack on the Turkish consul?

Answer: In response to this situation, a legislative proposal is being formulated to authorize the Secretary of State to reimburse local governments for costs incurred providing extraordinary protection for foreign consular personnel. We anticipate transmittal of this legislation and an accompanying FY 1983 budget amendment to the Congress shortly.

Security Enhancement

Question: For the record, provide the subcommittee with a status report on your Security Enhancement Program. Specifically, how many embassies are currently up to standard and how many more remain after 1983?

Answer: The Department plans to provide for security enhancement upgrades at 125 posts. Work is underway to complete upgrades at the 70 most seriously threatened posts by the end of FY 1985. The remaining 55 lower priority posts are currently being reviewed to determine if they should continue on the security enhancement program list. These posts will still receive security improvements, such as public access control (PAC) systems, armored vehicles, and improved radio and alarm systems, as required.

The Security Enhancement Program continues to show progress on a wide range of fronts. Through April of 1982, 30 high-threat posts have been surveyed for enhancement projects; additionally, 3 Foreign Service posts have been surveyed under a pilot Residential Security Program.

We have reached a point where the experience we have gained is enabling us to avoid delays incurred in early projects, and our rate of progress is accelerating. Construction is already under way in twelve posts. Within the next several months, it is anticipated that construction will begin at an additional 10 posts. Most of the originally surveyed 30 posts will complete the construction phase of their enhancement programs by the end of FY 1982 and the remainder will be completed by the middle of FY 1983. This will leave projects in 40 of the 70 most seriously threatened posts to be completed along with projects at up to 55 additional posts with lesser upgrade programs within the five year period of this program.

Of the embassies included in the security enhancement program, none is currently yet up to standard. San Salvador is the project nearest completion. Major construction is finished and the installation of security equipment is scheduled to begin soon. The last major element of this project is the installation of specially constructed safehaven equipment.

Increases for Information and Communication Systems

Question: The Department is requesting $14,564,000 for computer replacement, mini-computer installation; installation of secure telephones; and replacement of other equipment. Of the total amount requested, what portion is for one-time only purchases?

Answer: In fiscal year 1983, $5,155,000 of the total $14,564,000 for these programs represents one-time only equipment purchases. These are the following items:

- Mini-computer installation: $1,350,000/year.
- Secure telephones installation: $1,500,000/year.
- Teletype equipment replacement: $1,820,000/year.
- Unclassified word processors: $420,000/year.
- Software to connect with COINS II: $65,000/year.

The main frame computer replacement program represents leasing equipment, and thus no one-time procurements are involved.

Question: Also, if the Department has only 250 posts, why does it need to install 850 secure telephones at these posts?

Answer: The 850 unit Secure Voice Program includes multiple units at our larger overseas missions to permit reasonable accessibility to this equipment by key mission personnel.

It also includes a significant number of units for installations in the Department and transportable systems for quick movement to "hot spots", as well as for the Secretary and conference support.

Passport and Consular Activities

Question: The Department is requesting $548,000 to deal with a 3 percent increase in passport activities. Why can't the Department absorb an increase of this size? What effect would this have on service to the public?

Answer: In spite of economic indicators that suggested U.S. citizen travel overseas would decline, the 1982 volume of passport applications has increased approximately 12 percent over 1981. The 1982 budget anticipated growth of only 2.5 percent.

For FY 1983, we now anticipate a further increase of 6 percent in passport applications over the FY 1982 level, approximately 18 percent over 1981. Accordingly, the Department will have to cope with this substantial workload increase although only a 3 percent increase was projected in the FY 1983 budget. Consequently, the Department could not completely absorb the additional currently projected increase in 1983 without significantly reducing passport services to the public. The effect of not appropriating funds to meet even a part of the anticipated growth would mean peak season issuance time of four weeks or more, longer lines at domestic passport agencies, an increase in missed departure dates of travelers, increased telephone calls from concerned applicants and a rise in Congressional inquiries on behalf of constituents complaining of passport issuance delays.

Question: Also, for what reason are you requesting $4,428,000 and 85 positions for Consular Activities?

Answer: The Department's FY 1983 request includes an increase of 85 consular positions overseas (Bureau of East Asian and Pacific Affairs 10, Inter-American Affairs 51, Near Eastern and South Asian Affairs 11, African Affairs 7, and European Affairs 6). These positions are justified on the basis of a careful analysis of consular workload and staffing data obtained annually from each consular post. They comprise the minimum increase necessary to carry out the workload generated by statutory and regulatory consular requirements in FY 1983. Many of these positions are needed to meet rising nonimmigrant visa demands.

Tropical Tuna Commission

Question: In fiscal year 1982 we reduced the appropriation for the Inter-American Tropical Tuna Commission to the level in the September budget. What effect has this reduction had on its activities and what effect will the $1,850,000 level for 1983 have?

Answer: The total effect of the FY 1982 budget reduction on the activities of the Inter-American Tropical Tuna Commission (IATTC) is not completely clear, nor is the effect of the proposed United States contribution for FY 1983. The Commission has reported that six permanent staff positions have been eliminated and that it anticipates the elimination of several more permanent staff positions. All tagging programs and all at-sea research for both tuna and porpoise will be eliminated. Also, the international porpoise observer program and the porpoise gear research program will be reduced substantially.

Value of U.S. Properties

Question: The United States Government owns a great deal of property around the world which is managed by the Department of State. Do you have any recent estimate of the value of these holdings under your jurisdiction so that we can compare the relative costs of maintenance versus the real value?

Answer: The current value of the Department's property holdings abroad is approximately $3.5 billion.

American Contractors for Saudi Embassy

Question: We have heard from American contractors that they are unfairly disadvantaged in bidding on the Saudi project by cheap Korean labor. Has the Department looked at this matter and concluded that it is not feasible to give American contractors preference on this project?

Answer: The Department has not made a decision as to the feasibility of giving American contractors a preference on this project. In reality, the Department expects highly competitive bids from the American contractors who have established operations in the area. This has been evidenced by a number of construction contracts that have recently been awarded to U.S. firms on a competitive basis. The American contractors are using local skilled labor and are providing the necessary skilled management and supervision to monitor the project. Their knowledge of the market for U.S. source materials and our bidding conditions should give them a competitive edge for our project. In sum, American contractors will be given every reasonable opportunity to bid and their bids will be given the most serious consideration.

Question: Have you calculated the net additional costs of using American contractors versus the benefits to be gained?

Answer: If the American contractors who bid on this job use non-American labor, as we understand some are on other projects in Saudi Arabia, there may not be any net additional costs. If, on the other hand, only U.S. workers were used, the labor costs could be three times as high -- roughly $100 million compared with the current estimate of $37 million for non-American labor. This substantial difference not only includes the higher wages but also the added expenses of transportation, housing and incentives.

Very little of this added cost would be returned to the U.S. Treasury as the U.S. workers could claim the $75,000 foreign earned income exclusion. Also, the construction firms could reduce their U.S. taxes for income taxes paid or accrued to Saudi Arabia.

Increased Request for Moscow Embassy

Question: The Department is requesting $4,625,000 in additional funds for the Moscow Embassy. For what purpose are you requesting these funds?

Answer: The requested $4,625,000 increase for the Moscow Complex, of which $3,800,000 is new budget authority and $825,000 is to be derived from proceeds of sales, is required to meet previously unbudgeted expenses relating directly to providing protection from electromagnetic radiation and installing advanced security countermeasures. These requirements were identified prior to the Department's urgent security supplemental and are not contained in that request.

Buying Power Maintenance

Question: The Department is again requesting $15.0 million for the Buying Power Maintenance Fund. If the Fund is established this month, how much gain do you anticipate will be deposited in fiscal year 1982?

Answer: Because we now expect that our authorization bill will not become law until very late in the fiscal year we do not anticipate any gains will be deposited into the fund in fiscal year 1982.

Automation Initiatives

Question: What is the current status of FMS?

Answer: In March 1982 the Department awarded a contract to Price Waterhouse to develop and implement a standardized decentralized worldwide financial management system. This award followed an 18 month "fly-off", during which two firms presented their understanding of our requirements, and a proposal for implementing the Department's Conceptual Design.

Price Waterhouse has begun the first task, which is preparation of the functional requirements and detailed design documentation which will be the basis for programming and implementing the system and for obtaining system approval by the General Accounting Office. We have been working very closely with the GAO representatives and as a result the Comptroller General has approved the Department's Statement of Accounting Principles and Standards.

The firm will be responsible for programming, testing, documenting procedures, training and system implementation. We plan to implement the system by grouping system features such as accounting, budgeting, disbursing, etc., and releasing these groupings in time periods rather than all at one time.

Using the State Department's telecommunications network, personnel at the Financial Management Centers around the world will process financial transactions on minicomputers, prepare local reports, and transmit summary information to Washington. Thirty-two such Financial Management Centers have been designated. Most will serve other posts nearby, extending the scope of the new system to virtually all of the Department's posts.

Question: The Department's FY 1983 budget request includes a program increase of 30 positions and $14,564,000 for information and communication systems. In addition, it includes 6 positions and $2,500,000 for the Financial Management System (FMS) and funding for other systems which you have included in the base for 1983.

Prior to the submission of this budget to the Congress, did the Department develop an integrated long-range automation plan which would indicate how various systems are interrelated? If so, has that plan been approved by OMB? Can it be made available to this Committee?

Answer: Additional positions and funding requested in our FY 1983 budget primarily focus on expansion of our word and data processing system in Washington and overseas, security improvement and modernization of our classified communications network, equipment replacement, and consular passport and visa automation programs. These projects are in accordance with the Department's automation plans independently aimed at increasing productivity to meet heavier workloads with reduced staff and assuring security protection for our worldwide communications network. While these requirements have been approved by OMB in the context of the budget and our proposals do reflect consideration of systems inter-relationships, we have not heretofore proposed an integrated long range automation plan.

Last year the Department recognized the need to further formalize long-range automation plans with specific attention to interrelationships and growth between and within various systems. Early this year a coordinator for all management information systems was appointed with a mandate to develop strategic long range goals and objectives for all automated information systems within the

Department, as well as coordination of automated programs within Foreign Affairs community agencies. When an integrated long-range automation plan has been developed and approved by OMB, it will be made available to the Committee.

Question: How much money is available in the 1982 base for communications and data and word processing equipment? How much is available for each system in 1982 and 1983?

Answer: The FY 1982 base for communication and data/word processing equipment is $6.2 million and $2.7 million respectively. We estimate our FY 1983 level for these areas to be $10.2 million and $7.9 million. Procurement for these equipment items is dependent upon the availability of funds.

Our accounting system does not currently provide a detailed tracking of costs of individual equipment systems.

DEFERRAL OF PAYMENTS

Question: In fiscal year 1983 we will complete the deferral of payments to the International Organizations. We will then be paying our assessment in October of the calendar year in which payment is due -- rather than pay quarterly as in the past. Other than achieving some short-run budgetary savings -- which are more imaginary than real -- what have we achieved by the deferrals?

Answer: There is no doubt that the intended message of our deferral policy, which was to indicate U.S. concern about the need to contain rising budget growth, has been received by the international organizations. The United Nations regular program budget for 1982-1983 was predicated upon zero net program growth and the Director General of UNESCO has indicated that is one option for consideration for UNESCO's 1984-1985 biennium. We believe that without the deferral, i.e., without a concrete measure to demonstrate our clear dissatisfaction with the increase in agency budgets, overall budget growth would have been higher.

Question: To what extent has this policy enhanced our position in the international community -- particularly the United Nations?

Answer: Our deferral policy has clearly demonstrated to member states and the secretariats of the various international organizations that we indeed take rising budget growth very seriously. Thus our deferral policy has enhanced the impact of our budgetary position.

Question: Has this action of ours encouraged other member nations to bring their accounts current?

Answer: In general, we are not privy to the payment policies and the practices of other member states as these are individual matters between the particular member state and the international organization. We have learned, however, that some countries have paid their assessments earlier than usual in order to compensate for the planned delay of our payments.

UNITED NATIONS CASH FLOW PROBLEMS

Question: I understand that in order to overcome cash flow difficulties the United Nations increased the working capital fund by $60,000,000 in November. What is the extent of these problems and what are the causes?

Answer: Soviet withholding of its peacekeeping obligations and bond payments is the major factor of the UN's financial emergency. Non-receipt of assessed contributions results in a cash shortage for the day-to-day cash needs of the United Nations, essentially payroll and payments to vendors. We understand from United Nations Secretariat officials that the United Nations will be able to meet its monthly obligations through July, although to do so will require internal borrowing. While they have not yet provided us with a projected cash flow, UN officials have indicated that the problem will become acute sometime after July and through October.

Question: To what extent has the U.S. decision to defer payments in FY 1981 and 1982 affected the UN's cash situation?

Answer: Some hardship has resulted in the UN's actual cash position as a result of the U.S. deferral of payments. However, our contention remains that if withholding by the Soviet Union and others ceased and other nations paid on a predictable schedule, the deferral of U.S. payments to the UN Regular Budget could be planned for and accommodated by UN financial managers.

Question: Other than increasing the working capital fund, what actions have been taken or are contemplated to alleviate these difficulties?

Answer: In order to compensate for non-receipt of assessed contributions to the UN Regular Budget, the Assistant Secretary General for Financial Services resorts to internal borrowing from other accounts in order to meet monthly obligations. In addition, he sends out letters periodically to member states asking for prompt payment of their assessments. We are not aware of other financial measures under consideration by the United Nations to alleviate its cash flow problems.

EFFECTS OF HOLDING SPENDING TO 1982 LEVELS

Question: The overall budget request for Contributions to International Organizations for 1983 is $438,515,000 -- an increase of $40,275,000 over 1982 funding.

To be honest, budgetary pressures are such that any increase above 1982 will be difficult to come by. If the appropriation for next year is held to 1982 levels, what effect do you believe this would have?

Answer: For FY 1982, it was possible to absorb the reductions made in the request level for U.S. contributions to international organizations through an acceleration of the deferral process. However, if the FY 1983 appropriation for U.S. assessed contributions were held to the FY 1982 level, the United States would be in arrears by the amount of $40.3 million since the FY 1983 request reflects completion of the deferral process. It is important to understand that although the Administration's policy is to defer to the following fiscal year payment of major U.S.

assessed contributions, the Administration does not intend that the United States go into arrears. It remains Administration policy that all obligations will be met within the calendar year that they are due.

A policy of planned arrearages would severely undermine our credibility and effectiveness with our allies and the UN agencies. We have repeatedly stated to them that the deferral process does not mean arrearages and that the agencies could depend on receiving full payment of our assessed dues by the end of each calendar year. Not increasing the account in FY 1983 would negate both of these assurances. It would be extremely difficult, if not impossible, to explain why the greatest economic power on earth has decided to join the Soviet Union as an international scofflaw by consciously ignoring our treaty obligations. Our influence with our allies and the agencies on a wide variety of issues, especially financial, would be gravely undermined.

WORLD HEALTH ORGANIZATION BUDGET

Question: I noted in the budget justification that the World Health Organization offset its budget needs in FY 1982 and 1983 with income from other sources and carryover funds. The size of the offset -- $14.5 million in each year -- is substantially more than the $2.2 million offset in 1981.

From what sources was this income derived and why was the WHO able to adjust its request to this extent this year?

Answer: Of the $29 million other income for the biennium, a total of $24.4 million was derived from WHO's Holding and Casual Income Accounts, e.g., interest earned, savings in unliquidated obligations, sale of WHO publications and assessments on new member states. Another $4.6 million was provided from program support cost reimbursements.

Question: Can we expect this to be a trend for the future?

Answer: There is no assurance of the extent to which such earnings will reoccur, if at all. Late payments of assessments naturally will reduce interest earnings which are the largest component of the Holding and Casual Income Accounts. Furthermore, if the dollar/franc exchange rate falls below the budgeted level, there will be drawdowns from these accounts to cover the shortfall.

PROGRAM INCREASES

Question: Domestically we are taking action to drastically reduce Federal spending and reducing agency budgets below their base. I fully admit that I disagree with the Administration in a number of social policy areas. Be that as it may, virtually every one of the international organizations is getting an adjustment for inflation and some are allowing for program increases (UNESCO; WHO; FAO; IAEA). What is being done to convince these organizations that we cannot cut our own domestic programs and allow theirs to increase?

Answer: We voted "No" last autumn on the FAO and UN budgets for 1982-1983, which gave a strong message about U.S. concern for budgetary growth. As the major agencies begin the formulation of their budgets for 1984-1985, we have clearly indicated the

President's policy to seek no program growth with significant absorption of nondiscretionary cost increases and to support only those international organization budgets reflecting significant restraint. With our support, the April 1982 session of the Geneva Group Consultative Level reaffirmed its joint policy statement of 1981 regarding budgetary management of international organizations and agreed that the Geneva Group General would seek to identify measures to enforce that policy.

In addition, the Administration took the step of deferring payment of its assessed contributions to the United Nations and twelve other international organizations. This policy was adopted to demonstrate our clear displeasure with rising budget growth. For the major UN agencies, we have launched special reviews of their current program budgets which will be the basis for taking specific steps to enforce nongrowth as each formulates its next biennial budget.

Question: The United States pays 25 percent of the budget of the OECD and 24 percent of the budget of NATO.

Times have changed considerably. I would venture to say that the other member countries of the OECD -- who are all developed countries -- and our NATO allies can afford to bear a higher proportion of the costs of these two organizations. Why can't we get our payments down to the 14 percent we pay in the GATT? What's being done in this regard?

(NOTE: U.S. assessment to:
NATO - $15,600,000 in 1982
OECD - $15,800,000 in 1983)

Answer: We cannot get our payments to the OECD and NATO at the same level as our payments to GATT because the formulas for determining the assessments and the number of members of the three organizations are different.

The U.S. contribution to the NATO Civil Budget was negotiated at 24.2 percent in 1955. Considering the economic environment at that time, had another formula (GNP/purchasing power/population) been used, the U.S. cost share would have been much higher. Although the economic picture has changed since then, there would be no basis to justify a lower cost-sharing figure. If another formula (GNP/purchasing power/population) should be applied now, our share would be above 24.2 percent. It is for this reason that the U.S. has not reopened the question of cost-sharing. NATO has 15 members. With the accession of Spain, there will be 16 members and a minor reduction to approximately 23 percent.

The method of determining the scale of assessment for the OECD is described in document OECD-P(WP-4)3 dated July 21, 1961. Each member country's annual assessment is calculated on the basis of GNP/purchasing power/population. The 25 percent figure corresponding to the U.S. assessment reflects a ceiling set by the organization in 1961. Without the ceiling, the U.S. assessment in 1981 would have been 36.49 percent based on the foregoing criteria. At present the OECD has 24 members.

Because of the "objective" nature of the cost sharing criteria and the consensus principle in OECD, it is not likely that the U.S. assessment could be reduced from 25 percent.

The draft scale of contributions for GATT is based on a country's share of the foreign trade of GATT Contracting Parties and associated governments. Trade data used is for the three most recent years available. The scale is modified to the extent that the minimum contribution is 0.12 percent for those countries whose share of trade is 0.12 percent or less. The U.S. share of 14.35 percent is thus fractionally lower than it would be without the 0.12 percent floor. GATT has 84 members.

Question: Also, why have we not deferred payments to NATO when we deferred payment to virtually all other major organizations?

Answer: NATO was not included in the deferral process because NATO operates on a cash basis.

Question: What is being done to review the desirability of U.S. membership in individual organizations?

Answer: The Department has taken a number of steps to intensify its examination of U.S. participation in UN organizations and programs. The first step taken was to consolidate functions and strengthen budget and program analysis under a newly-appointed Deputy Assistant Secretary responsible for international management and budgetary analysis in the Bureau for International Organization Affairs. The establishment of this office has significantly improved our capability to review the programs and budgets of the UN and specialized agencies as a normal part of our daily functions. As a result we are now able to support our representatives at the UN and specialized organizations with more responsible and extensive instructions for implementing U.S. policies. Specifically, our increased budget and program analysis capability has made it possible for the Department to conduct an aggressive campaign throughout the UN system directed toward maintaining zero program growth and redirecting resources toward practical and high priority programs.

Secondly, the IO Bureau has added a major new section to its planning documents this year on UN agency budgets and programs. This section, in addition to presenting a breakdown of each agency's budget, identified the cost of the major programs conducted by the agency and, on the basis of cost-benefit analysis, draws conclusions on whether the programs should be expanded, curtailed, or terminated in favor of other programs with higher priorities. A separate plan is written on each of the major specialized agencies. Our representatives to UN agencies draw upon these plans when recommending program changes in UN fora.

Thirdly, we have completed a USG interagency survey to determine whether the information we receive from the UN system is adequate for evaluating the effectiveness of UN programs and, if not, what it is we lack. A list of our informational requirements has been given to a UN task force formed to determine the information needs of member nations and to recommend the procedures for making this information available to them.

Fourthly, we are completing a coordinated, interagency review of U.S. participation in 75 international organizations and commissions for the express purpose of evaluating whether the benefits received, both by the U.S. and the international community, warrant continued U.S. membership. This preliminary study will be followed up with more in-depth selective evaluations.

Question: For the record will you provide the Subcommittee with a list of organizations from which the United States is withdrawing?

Answer: The clearest case for withdrawal can be made in those instances where an organization has outlived its usefulness or where the U.S. no longer has a constructive role to play. United States participation was discontinued in the International Tin Council, the UN Trust Fund for the Disaster Relief Coordinator, the World Heritage Fund, the UN Trust Fund for South Africa, and the UN Institute for Training and Research.

INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE

Question: The Inter-American Institute for Cooperation on Agriculture (IICA) is an agency in the OAS system. Congress took action to exempt the OAS and the Pan American Health Organization from the the deferrals; however, we did not specifically exempt the IICA. Like the other Pan American organizations, the U.S. pays 61 percent of the IICA budget. The 1982 deferral is $6.7 million and the FY 1983 deferral is nearly $11.4 million.

There is considerable Congressional interest in remedying the situation. Do you have the resources to restore the 1982 and 1983 deferrals?

Answer: The restoration of the 1982 deferral for IICA would require a further acceleration of the deferral process for other organizations, thus compounding their cash flow problems. Those organizations currently participating in the deferral process would have to defer an additional $6.7 million to FY 1983.

However, in FY 1983 the deferral process can no longer be accelerated as the process will be fully implemented by then. Thus, we do not have the resources for restoring the 1983 deferral of $11.4 million for IICA. In order to avoid going into arrears for other organizations, restoration of the 1983 deferral for IICA would require increasing the FY 1983 appropriation for Contributions to International Organizations by $11.4 million.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

1982 Security Supplemental

Question: It is proposed that the 1982 supplemental funds remain available until expended. Is there an authorization in law for such language?

Answer: Section 24(c) of the Department's Basic Authorities Act of 1956, as amended, (P.L. 84-885) states that "Amounts authorized to be appropriated for a fiscal year for the Department of State... are authorized to be made available until expended." Accordingly, during the appropriations process, the Department can request funds for security and other programs on a "no year" basis.

The language making the 1982 security supplemental a no-year appropriation is identical to provisions contained in the regular Salaries and Expenses appropriation language for the last two fiscal years for the Security Enhancement program.

Question: What projects in the supplementals will not be obligated by September 30, 1983?

Answer: We estimated that certain elements of 15 of the Public Access Control Projects (PAC) will not be fully obligated by September 30, 1983. This is because of the size and complexity of some of the projects, unanticipated bad weather, and delays in securing local contractors. Even so, we believe substantial work on these 15 PAC projects will have been accomplished by September 30, 1983. The specific PAC projects on which we anticipate we may incur delays are:

Amsterdam
Copenhagen
Frankfurt-Consulate
Munich
Paris
Rome
Stockholm
Vienna
Bonn
Edinburgh
Mexico City
Oslo
Paris-Annex D
Rotterdam
The Hague

We estimate that funds for all non-PAC projects in the Security Supplemental will be fully obligated by September 30, 1983.

Question: Would not management of these funds be enhanced by allowing them to remain available through September 30, 1983 instead of being indefinite?

Answer: We do not believe so. A significant component of the supplemental reflects procurement of special purpose items for public access control - $31,039,000. The budgets for such major procurement and construction efforts are generally provided no-year funding because the actions are complicated and dependent on variables beyond the control of management such as weather changes, vendor performance delays, and material availability. Orderly execution of such programs requires the flexibility to assure that the objectives are met in a cost effective manner.

Security Problems

Question: What impact will the World's Fair at Knoxville have on the Department's security personnel in terms of protecting foreign dignitaries? Along the same line, what arrangements are being made for the 1984 Fair in New Orleans as well as the Olympics in Los Angeles?

Anwser: Undoubtedly, the Knoxville World's Fair will have an impact on the Department's Office of Security agent resources because of expected increases in foreign dignitaries traveling within the U.S. to attend the Fair. There are 22 countries which have exhibits in 16 pavillions. It is conceivable that up to 15 foreign representatives requiring protection could travel to the Fair. Unfortunately, most of this travel will probably occur in conjunction with the United Nations General Assembly during September and October.

In preparation for this need, A/SY has established a command post and radio communications network in Knoxville. Also, tentative arrangements have been made for hotel accommodations.

In fiscal year 1982 we estimate the Office of Communications will require 320 man-hours of voice radio system support to the Office of Security agents performing these protective services. To remove these facilities upon completion of activities at the beginning of fiscal year 1983 (October 1982) will require an estimated 120 man-hours.

To date no arrangements have been made for the 1984 Fair in New Orleans. However, we anticipate the communications arrangements for New Orleans will be similar to the Knoxville facilities.

For the 1984 Olympics in Los Angeles, 230 man-hours are estimated. Special agents in the Office of Security have begun to meet with representatives of the Los Angeles Police Department to plan for these Olympics.

Embassy Security

Question: Following the 1979 takeover of our embassy in Tehran, and the subsequent attacks on the embassies at Islamabad and Tripoli, the Department assigned survey teams to assess the security improvements at 26 critical posts. According to information from the Department, more than $20 million has now been committed to security enhancements at those posts. That information indicates that more than $25,860,000 is required to complete the improvements recommended by the teams.

According to the Department, all the remaining security improvements can be accomplished by September of 1983. Is that a realistic estimate in view of the amount of time it has taken to commit the first $20 million?

Answer: By September 30, 1983, the Department expects to have 30 security enhancement projects at critical Foreign Service posts completed. We believe that is a realistic estimate based on our progress to date.

Much of the initial work in the earlier stages of the Security Enhancement Program has been in the conduct of surveys, the design of security and communications systems, the procurement of equipment, and the design of architectural modifications to buildings at high threat posts. Most of this work is now completed, and construction is underway in twelve posts. Within the next several months we anticipate that construction will begin at the remaining posts as we move toward our goal of completing construction projects in 30 posts during FY 1983.

Question: The Survey Teams recommended greater protection around the Embassy at Managua--a temporary building erected after the earthquake--that has already been pierced by a bullet. How is that recommendation being carried out?

Answer: Due to the structural problems in the Embassy office building in Managua, the Department cannot undertake the installation of bullet-resistant materials without construction drawings. Those drawings have been completed and are being forwarded to the post for bidding.

It is anticipated that a contract will be awarded soon and that construction can begin in August with a target completion date of January 31, 1983. This construction work will provide the protection recommended by the security survey team primarily in the following areas:

-- strengthening Chancery public access controls,
-- creating a safehaven, and
-- increasing guard coverage.

The Department has already built barrier fences around the Embassy and a new emergency evacuation site away from the Embassy.

Marine Guards

Question: How many Marine Security Guards are now assigned to our Embassies and how many are projected for Fiscal 1983?

Answer: The current Marine Security Guard complement is 1,150. In FY 1983 it is anticipated that three new detachments of six Marine Guards each will be added for a total of 1,168 Marine Security Guards.

Question: Are the Marines furnishing the number of guards that the Department's security personnel recommend?

Answer:	The Marine Corps has continued to furnish the necessary number of Marine Security Guards required by security personnel of the Department of State.
Question:	The survey team recommended that the MSG complement in Ankara be increased. Has that been accomplished?
Answer:	Once the Security Enhancement Project is completed this fall, an additional Marine is scheduled for Ankara. This will increase the number of Marine Security guards in Ankara to ten.

Visa Problems

Question:	Industrialists in South Carolina have indicated to me that they have encountered problems with consular personnel overseas. South Carolina has been very successful in persuading foreign investors to locate facilities in the State. There is a feeling that the Department is pursuing a more restrictive policy than previously, and that it is hurting the effort to attract foreign capital. While a careful screening to preclude the entry of hostile intelligence agents is essential, I am concerned that our consular personnel are indifferent to the need to attract foreign investment to the United States. What is the policy of the Department with regard to the travel of foreign investors to the United States?
Answer:	It is the policy of the Department to promptly issue investor visas to all qualified applicants. In fiscal year 1980, the last year for which such statistics are readily available, consular officers issued over 27,300 "E" visas to qualified applicants world-wide. The issuance of visas to investors is a long-standing policy rooted in our Immigration and Nationality Act (INA) reflecting Congressional recognition of the importance of foreign investment in the U S. In fact, the establishment of the "E" (treaty/trader/investor), and more recently, "L" (intracompany transferee) visa categories is the direct result of clear Congressional intent to continue to facilitate the entrance of foreign investors. Recently the Department issued guidelines to all consular officers abroad to facilitate and foster uniformity in the adjudication of investor visa applications. Such advisory opinions, which are issued from time to time to bring consistency to one or another consular operation, do not represent shifts in U.S. policy. In this instance, the guidelines did not restrict "E" visa issuances to investors of any nationality.

Fake Passports

Question: Time Magazine has reported that our "consular personnel have made a million-dollar business out of the illegal sale of U.S. visas -- and are getting away with it, largely because State Department higher-ups are terrified of a scandal." When the article was published, November 30, 1981, the Department indicated it was investigating 40 to 50 malfeasance cases.

What is the current status of those investigations as there seems to be a large gap between the estimated $1,000,000 business and the two employees the Department has prosecuted in the last four years?

Answer: The Department has investigated all allegations of visa malfeasance. No information has been developed to support the Time Magazine article claim that "consular personnel have made a million-dollar business out of the illegal sale of U.S. visas..." In fact, as the numbers in the next paragraph indicate, current completed investigations disclose an extremely low level of malfeasance, none of it involving American employees.

Of the 42 visa malfeasance investigations that were pending at the time the article in question was published (November 30, 1981), twenty-six (26) have been completed. In most of these cases, the allegations were found to be without merit. None of the investigations established malfeasance on the part of any American employee. Several of the investigations did establish malfeasance on the part of Foreign Service National employees with appropriate action take by the Department (i.e., dismissal, and when possible, criminal prosecution by the host government). The other cases remain under investigation.

Question: Information supplied the Subcommittee indicates that overtime for fraud investigations is declining from $47,000 in 1981 to $15,000 in 1982. This is due to the increased protection being afforded the Secretary of State and foreign dignitaries. How does the amount of security staff-years assigned to fraud activities in 1982 compare to 1981?

Answer: During FY 1981 approximately 10 man-years were devoted to passport and malfeasance investigations -- 4 man-years in Washington and 6 man-years in the field. Projections for FY 1982 indicate a moderate increase of 2 man-years to reach a total of 12 man-years expended.

Question: Do you agree with the estimate in the November 30th Time article that 30 to 60,000 of the 3 million passport applications are fraudulent, and if so why aren't we investigating more than 1,000 per year?

Answer: The Department does not agree with the estimate, The figure, as far as we can tell, has no basis in fact.

The Department compiles statistics on passport fraud cases actually reported or detected. The worldwide numbers for the last six fiscal years are as follows:

1981 - 998
1980 - 1002
1979 - 772
1978 - 1012
1977 - 1098
1976 - 1091

Buying Power Maintenance

Question: The dollar still remains strong — how much currency gain is expected to be transferred to the Buying Power Maintenance Appropriation in Fiscal 1982?

Answer: Because we now expect that our authorization bill will not become law until very late in the fiscal year we do not anticipate any gains will be deposited into the fund in fiscal year 1982.

Question: How do the exchange rates now budgeted for 1982 for the 16 OECD countries compare to the exchange rates as of May 1, 1982? Similarly, how do the exchange rates budgeted for 1983 for these 16 countries compare to the May 1st rates?

Answer: The exchange rates of November 30 for the FY 1982 and FY 1983 budgets and for May 1, 1982 are shown below.

Country	FY 82 Rate (11/30/80)	FY 83 Rate (11/30/81)	May 1, 1982 Rate
Austria	13.63	15.64	16.50
Belguim	30.8	37.43	44.48
Canada	1.1835	1.1779	1.2265
Denmark	5.8833	7.165	7.939
Finland	3.784	4.35	4.572
France	4.449	5.61	6.146
Germany	1.91	2.22	2.35
Italy	912.5	1,192.75	1,303.25
Netherlands	2.0788	2.434	2.613
Norway	5.0255	5.7325	6.0100
Spain	77.54	94.90	84.61
Sweden	4.2975	5.462	5.833
Switzerland	1.7300	1.7825	1.964
U.K.	0.4214	0.5133	0.5605
Japan	213.8	215.7	243.3
New Zealand	1.0335	1.2041	1.3004

Congress decreased the Department's original budget request for FY 1982 by approximately $30 million in the beginning of the fiscal year due to anticipated exchange rate gains. Of the $30 million, $16 million were related to countries covered by the Buying Power Maintenance Appropriation. A corresponding reduction was taken from the FY 1983 budget also. So far, we have had both gains and losses this fiscal year. This situation is under continuous review and is subject to refinement.

United States Bilateral Science and Technology Agreement with Poland

Question: In 1983, $2,000,000 is again requested for the United States Bilateral Science and Technology Agreement with Poland. On April 26th, President Reagan informed the Congress that the $2,000,000 appropriated for Fiscal 1982 has been deferred as negotiations with Poland have been suspended since the Polish Government imposed martial law on December 13, 1981. Would the Department have any objection to $2,000,000 already appropriated being transferred to offset your 1982 supplemental requests?

Answer: We would have no objection to the $2,000,000 being transferred to offset the Department's 1982 supplemental requests.

Question: Since the Polish Government shows no signs of relaxing martial law, is there any reason why the 1983 request should not be denied on the basis that it could be resubmitted as a supplemental if martial law is ended?

Answer: The prospect of restoration of our bilateral science and technology (S&T) program with Poland is an important lever we are using to try to persuade Polish authorities to end martial law. If the Polish authorities became aware that the Department of State was no longer in a position to restore the program quickly in response to their meeting of the NATO criteria, our ability to use the S&T program as a lever would be greatly reduced. Therefore, we believe that funds requested for this program should be included in the Department of State's regular 1983 appropriation.

Payment to The Asia Foundation

Question: Senate Report 97-71 accompanying the State Department Authorization Act for fiscal years 1982 and 1983 provided for a report on the future of The Asia Foundation to be Submitted to Congress by December 1, 1981. Has the report been submitted to Congress?

Answer: The report is in the process of being cleared within the Executive Branch. It will be submitted to Congress immediately upon completion of the clearance process.

Question: For the last two years, our Ambassadors in the Far East, as well as other knowledgeable people, have called upon the Committee to continue The Asia Foundation. On April 26th, Assistant Secretary Elliott Abrams told the trustees of the Foundation that the Department recognized the assistance it renders and supports them. Yet, there are again no funds requested for the core expenses of the Foundation. Mr. Secretary, does the Department believe that the Asia Foundation should be maintained, and if so, why are no funds requested?

Answer: While The Asia Foundation (TAF) has made a valuable contribution to U.S. foreign affairs objectives in the past, no funds are being requested for TAF in 1983 because of budget stringencies and the relatively lower priority of The Asia Foundation for a claim on the resources within the Department's budget. The resources requested for the Department's operating budget are limited and reflect only those amounts needed to meet its fundamental requirements.

Diplomatic Reciprocity

Question: My conversations with our diplomatic personnel abroad have indicated that there is a great need to improve diplomatic reciprocity. In Mexico, for instance, our personnel may only import one automobile every three years, while we allow their personnel to purchase any number of vehicles tax free, as well as import two foreign-made vehicles tax free every three years. Similar differences exist with regard to sales taxes and ownership of property by the Government. What can we do to assure that our missions and personnel overseas are treated as fairly as foreign diplomatic personnel are treated here?

Answer: The single most important step that can be taken in the area of diplomatic reciprocity is expeditious enactment of the "Foreign Missions Act" (S.854, H.R.4814 Title II), which has passed both Houses of the Congress and is currently in conference to resolve differences.

The inequity noted in your question reflects the current imbalance between the treatment by many countries of official U.S. missions and corresponding treatment of these foreign government missions in the United States. The Department of State currently lacks authority which many other governments have to enforce reciprocity in an appropriate manner.

Enactment of the "Foreign Missions Act" would address this imbalance so that the conditions under which foreign missions operate in the United States could be adjusted to reflect the conditions under which missions of the United States operate in these foreign countries. As a result, the foreign governments represented in the United States will have an incentive to provide fair and equitable treatment to U.S. missions and personnel in their countries, thus contributing to significant economies and efficiencies in operating U.S. missions, improved working conditions for U.S. personnel, and increased mutual respect in our foreign relations.

RADIO BROADCASTING TO CUBA

STATEMENT OF HON. THOMAS O. ENDERS, ASSISTANT SECRETARY FOR INTER-AMERICAN AFFAIRS

BUDGET REQUEST

Senator **Weicker**. Our next request is for radio broadcasting to Cuba. The amounts requested are $7,700,000 and 182 permanent positions. This is a decrease of $2,300,000 from the 1982 requested appropriation but an increase of $532,000 and 14 new positions over the 1983 base to provide engineering and personnel resources for a second transmitter in the Caribbean.

Appearing on behalf of this request is the Assistant Secretary for Inter-American Affairs, Ambassador Thomas O. Enders.

Ambassador, why don't you proceed with your statement?

You may introduce those that accompany you. You can handle it in any way that you deem fit.

Mr. **Enders**. Thanks, very much, Mr. Chairman.

I do have a statement. I would like, if I could, to submit it for your record, but perhaps I could make a few general comments about this proposal.

ENDERS' SUMMARY

I would like to start, if I could, with an overview of Cuba itself. I know the interest that you have taken in Cuban affairs over the years. It is a strange country we all, I think, know. After 20 years of revolution, the per capita income of the country is not much different than it was prior to the revolution; even that result has been obtained only as the result of massive support from the Soviet Union which now provides largely through high sugar prices and low oil prices something on the order of a quarter of the GNP of that country. Cuba is an economic failure, and yet it is also a country that projects power in the area.

It has built up the second largest armed forces, second most powerful armed forces in the Americas, an extraordinary accomplishment for a country of 10 million people.

Last year, it might have received something on the order of 1 billion dollars' worth of Soviet military equipment in value. Most surely it exceeded 66,000 tons of Soviet military equipment.

It is a country which projects power into Africa and is engaged in an enormous subversive campaign in Central America in the last 3 years, promoting armed insurrection.

It is, in short, a would-be foreign policy giant, allied to an economic pygmy. There are very few countries, Mr. Chairman, that can overcommit to foreign adventures this way, and only those that have totalitarian systems can do it.

In effect, the citizens of Cuba have very few means to hold their government accountable for what it is doing overseas. The proposal that we are making now, Radio Marti, is a proposal to help them have a means to hold their government more clearly accountable for what it is now doing than they now clearly can.

Let me make clear that this is not a proposal to tell the Cubans about the United States. We have the Voice of America for that. That is what it is chartered to do. It can be heard in Spanish. There are also stations broadcasting in Spanish from Florida that can be heard in the Western part of Cuba. They tell Cubans a certain amount about life in the United States. But they are clearly focused on the needs of their own rate base in Florida. It is not a proposal to incite Cubans to revolt against their society. We think that would be irresponsible because the Cuban Government clearly monopolizes the forces of coercion.

What it is is a proposal very much like Radio Free Europe and Radio Liberty, which are designed to gradually earn an audience by being credible, by providing Cubans a consistent opportunity to check their own impressions against accurate information, to gradually develop a basic credibility that the Cuban population as a whole can rely on in judging the activities of its own government.

We compare this with Radio Free Europe and Radio Liberty because it took them a long time to earn their audience, but now they have a very substantial audience.

We think that, for example, about 70 percent of the Polish radio audience listens to Radio Free Europe regularly. I don't think that there is anybody who doubts that the kind of changes that took place in Poland would have been as extensive or as possible if that kind of opening to the outside world were not available.

So it is a proposal to make a sustained, long-term effort on the basis of credible information and broadcasting.

We think of this, Mr. Chairman, as part of a general Cuba policy. Some people say to us, "Well, why don't you negotiate with the Cubans? Why engage in a broadcasting activity? If Cuba is the kind of society you say it is, then, perhaps, it should be opened up."

Somebody wrote in the newspapers the other day, "If only you could have free movement of Anericans to and from Cuba, Cubans to and from the United States, an opportunity to engage in the common passion of baseball, reciprocal openness, the Castro government could not survive."

The Castro government does not seem to be overly anxious to open itself up to such foreign influences. But we have, indeed, negotiated over—negotiated is perhaps too strong a word—talked, certainly, seriously over a period of years, beginning in 1977, with the Cubans.

At that time, we said to the Cubans, we would like to see whether there couldn't be conditions created in which the legacy of the past, let's say, the embargo, mutual hostility, could be gradually overcome. We suggested that we both try to create conditions in which an evolution would be possible. Our suggestion to them was, "Perhaps you could begin reducing the number of troops you have in Angola." It was the end of the Angolan Civil War. There were some 20,000 troops there, "And that would be very much confidence building for us."

While the talks went on, the Cubans not only did not withdraw from Angola; they went into Ethiopia.

Conversations did continue, and while they went on, Cuban strategy toward Central America changed. In mid-1978, Cuba took the decision to back the insurrection in Nicaragua and then went on to the same strategy in El Salvador, Guatemala, and more recently in Colombia and Honduras.

We did, as you know, continue to meet and we were still having meetings in 1980 when the Mariel boatlift took place.

I am not trying to say that these examples of greater Cuban activism, aggressiveness, were the result of the talks. But it is remarkable that the talks coincided with, perhaps, the most activist period of Cuban foreign policy since the 1960's.

We have continued to have contacts with Cuba in the last year. I think it is very inportant to make sure that we communicate clearly with Cuba; know what their policy is directly from them. But I cannot say that these contacts have been encouraging.

Characteristically, the Cubans say that they would like to negotiate with the United States. They say it privately as well as publicly. Usually what they want to negotiate about is the bilateral agenda, Guantanamo, the embargo, immigration. And when you ask them about Central America and Africa, then they usually say that their commitment to fraternal national liberation movements is nonnegotiable.

So in other words, the things that concern us are not on the table; things that concern them are on the table.

Mr. Chairman, some people, in commenting on the proposal for Radio Marti, have said that this would be an invitation to a reaction from Cuba, that there will be a resulting massive jamming or interference or retaliation against American broadcasting.

They even suggested that we should abandon the policy because of possible Cuban reactions. I think there isn't any question that Cuban interference is a serious problem in the United States because international broadcasting is inevitably a cooperative venture, and Cuba has chosen not to participate, not to cooperate, already now for a number of years.

Cuban interference has been growing for a number of years. It was a serious problem before the proposal for Radio Marti was put forward. With or without it, it will continue to be a very serious problem in the future.

We do not know precisely, cannot know at this stage, what Cuba will do if the Congress authorizes the creation of Radio Marti.

In August 1981, last year, that is to say, a month before the White House announced plans for Radio Marti, Cuba made known its intention to put up a high powered station on 1040 kilohertz which would have, which will have when completed, very serious consequences for

WHO in Des Moines, and even more for Radio Marti broadcasts on that frequency. It will also cause problems for broadcasters in other countries.

We have been studying the use of that frequency also for Radio Marti, and find it to be wholly consistent with both our domestic interests and our international commitments.

But we don't know exactly what Castro is going to do. The last statement that we have from him is dated April 4 and, speaking of the radio, he said that he hoped it would not go on the air, but, and this is a quote, "If in the end there is to be a dialectic confrontation between them and us, they with their subversive station and we with our arguments in response"—the Cubans have been talking about a radio Lincoln—we are prepared to give a suitable response."

What that suggests, Mr. Chairman, is that Castro will get into a campaign of broadcasting to the United States.

Senator WEICKER. The same thing you are planning to do.

Mr. ENDERS. I don't think it would be the same thing, because I don't think, Mr. Chairman, that we will find that the Cuban arguments are going to be on the same basis of probity that the American arguments are going to be.

We think that this proposal corresponds to a basic need in Cuba. It is a proposal which grows out of the success of our Eastern European and Soviet-oriented radio programs, which not only have gathered and held very strong backing in this Congress and in various administrations, and in the country, but very clearly have attracted an enormous listenership in the Communist countries of Eastern Europe and the Soviet Union.

We would expect this proposal not to be a partisan radio, one that could be captured or influenced by any particular view, any particular set of politics, any particular strategy, but one which could speak to the Cuban people overall.

PREPARED STATEMENT

We are hopeful that you will be able to support it, Mr. Chairman.

Thank you. We will place your statement in the record.

[The statement follows:]

STATEMENT OF THOMAS O. ENDERS

I APPRECIATE THE OPPORTUNITY TO PRESENT TO YOU OUR 1982 AND 1983 BUDGET REQUEST FOR RADIO BROADCASTING TO CUBA, A NEW PROGRAM TO PROVIDE TO THE CUBAN PEOPLE AN ALTERNATE, RELIABLE SOURCE OF NEWS AND COMMENTARY ABOUT EVENTS TAKING PLACE IN THEIR HOMELAND. BUT BEFORE I GET INTO THE DETAILS OF THIS REQUEST, PERHAPS I SHOULD BEGIN WITH CUBAN SOCIETY ITSELF.

THERE IS NOTHING QUITE LIKE IT. THE ECONOMY, ORGANIZED IN THE FAMILIAR SOVIET COMMAND MODEL, HAS REGISTERED A GENERAL FAILURE. DESPITE GROWING SOVIET ASSISTANCE IN SALES OF OIL AT LOW PRICES AND PURCHASES OF SUGAR AT HIGH PRICES -- THE WHOLE SOVIET AID EFFORT IS NOW EQUIVALENT TO ONE QUARTER OF CUBA'S GNP -- PER CAPITA INCOME IN CUBA HAS BEEN STAGNANT AND STEADILY FALLING RELATIVE TO MUCH OF LATIN AMERICA.

YET CUBA PROJECTS POWER IN THE WORLD. THE SOVIET UNION SUBSIDIZES CUBA WITH OVER $3 BILLION IN ECONOMIC AID PER YEAR. IN ADDITION, CUBA'S ARMED FORCES -- AUGMENTED BY 66,000 TONS OF SOVIET MILITARY DELIVERIES IN 1981 ALONE -- ARE STRONGER THAN ANY IN THE WESTERN HEMISPHERE OTHER THAN THE UNITED STATES. IT MAINTAINS 40 THOUSAND SOLDIERS IN AFRICA, DOMINATING TWO COUNTRIES, AND DOING FOR THE SOVIET UNION WHAT THE GURKHA MERCENARIES DID FOR NINETEENTH CENTURY ENGLAND. IN CENTRAL AMERICA CUBA IS ATTEMPTING TO UNITE THE LEFT IN SEARCH OF THE VIOLENT OVERTHROW OF ESTABLISHED GOVERNMENT, AND MAINTAINS NO LESS THAN 1800 to 2000 MILITARY AND SECURITY PERSONNEL IN NICARAGUA.

IN OTHER WORDS, A WOULD-BE FOREIGN POLICY GIANT IS ALLIED TO AN ECONOMIC PYGMY, WHOSE PEOPLES HAVE HAD TO SACRIFICE ALL HOPE FOR A RISING STANDARD OF LIVING IN ORDER TO GAIN ADVANTAGES IN FOREIGN AFFAIRS.

MOST COUNTRIES CANNOT OVERCOMMIT TO STATE INTERESTS IN THIS MANNER, BECAUSE THE PEOPLE FORCE THEM TO ADDRESS THEIR CONCERNS. BUT CUBANS LACK THE MEANS TO HOLD THEIR GOVERNMENT ACCOUNTABLE.

THE PROPOSAL WE DISCUSS TODAY -- RADIO BROADCASTING TO CUBA, INC. -- IS INTENDED TO SUPPLY WHAT THE CUBAN PUBLIC IS MISSING: RELIABLE NEWS ABOUT CUBAN LIFE, FEATURES, SPORTS AND ENTERTAINMENT ALTERNATIVES TO THE DISTORTED, CENSORED NEWS THAT IS BEING OFFERED BY A GOVERNMENT THAT RULES NOT FOR THE PEOPLE BUT FOR ITSELF.

NO, THIS IS NOT A PROJECT TO TELL THE CUBAN PEOPLE ABOUT THE UNITED STATES. VOA -- WHOSE CHARTER IS INTERNATIONAL NEWS AND AMERICAN FEATURES AND CULTURE -- ALREADY DOES THAT. IT CAN BE HEARD IN SPANISH. SO ALSO CAN FLORIDA RADIO STATIONS BROADCASTING IN SPANISH TO CUBAN-AMERICANS. THESE STATIONS CAN TELL CUBANS MUCH ABOUT US. BUT THEY ARE NOT AN ADEQUATE SOURCE OF INFORMATION ABOUT WHAT IS GOING ON IN CUBA ITSELF.

NOR IS IT A PROJECT TO INCITE CUBANS TO REVOLT AGAINST THEIR OWN SOCIETY. THERE IS PROVOCATION ENOUGH IN THE REDISTRIBUTED POVERTY, IN THE DEPRESSING AUSTERITY, IN THE UNEMPLOYMENT AND UNDER-EMPLOYMENT OF EDUCATED CUBANS, IN THE RIGID REGIMENTION AND IN CASTRO'S SPEECHES THAT ONLY FURTHER SACRIFICE LIES AHEAD. BUT IT WOULD BE IMMORAL, IRRESPONSIBLE TO SET A PEOPLE AGAINST A GOVERNMENT THAT MONOPOLIZES THE MEANS OF COERCION.

THIS RADIO IS A PROPOSAL TO GIVE CUBANS THE MEANS THEY NOW LACK TO KNOW WHAT KIND OF A SOCIETY HAS BEEN IMPOSED ON THEM, TO FURNISH THEM WITH A SOURCE OF NEWS AND ENTERTAINMENT THAT IS NOT MANIPULATED BY THE STATE, TO LET THEM FIND OUT WHAT

IS REALLY HAPPENING IN THEIR COUNTRY, TO INFORM THEM WHY SO MANY HAVE GONE OFF TO FOREIGN MILITARY DUTY NOT ALWAYS TO RETURN, AND TO LEARN WHAT THE STATE REALLY DOES WITH THE WEALTH OF THE CUBAN PEOPLE.

THE RADIO -- LIKE RADIO FREE EUROPE AND RADIO LIBERTY BEFORE IT -- IS INTENDED GRADUALLY TO EARN ITS AUDIENCE THROUGH ITS SPECIAL SENSITIVITY TO NEEDS THE STATE IGNORES. IT WILL SPEAK TO YOUNG PEOPLE OF THE SPORTS AND MUSIC THEY LOVE. IT WILL SPEAK TO ADULTS OF THE GREAT CUBAN AND HISPANIC-AMERICAN HERITAGE THEY ADMIRE, WHICH SO OFTEN THE STATE DENIGRATES. AND IT WILL GIVE NEWS ON THE TRUTH OF WHICH THE LISTENERS CAN RELY.

WE KNOW THAT IN EASTERN EUROPE IT TOOK YEARS FOR RADIO FREE EUROPE TO EARN AN AUDIENCE. LITTLE BY LITTLE THAT AUDIENCE EXPANDED. RADIO FREE EUROPE NOW HAS PERHAPS 70 PERCENT OF THE POLISH RADIO AUDIENCE. IS THERE ANY DOUBT THAT THE CHANGES OF THE LAST DECADE COULD HAVE OCCURRED WITHOUT THAT HONEST, TRUSTWORTHY, HUMANE OUTSIDE CONTACT?

OUR PROPOSAL IS THUS TO BEGIN A SUSTAINED EFFORT, OVER MANY YEARS, TO HELP THE CUBANS KNOW MORE ABOUT THEIR COUNTRY, AND THUS TO HOLD THEIR GOVERNMENT ACCOUNTABLE IN WAYS IT IS NOT NOW.

PEOPLE SAY: WOULDN'T IT BE BETTER TO NEGOTIATE WITH THE CUBANS; OR IT ISN'T LIKE US TO ENGAGE IN PROPAGANDA; OR CUBAN COUNTERMEASURES WILL HURT US TOO MUCH.

WE HAVE TRIED TO TALK WITH CUBA IN THE PAST AND IT WOULD BE WRONG TO RULE OUT TRYING AGAIN. BUT THE RECORD IS DAUNTING.

IN 1977 WE STARTED TALKING SERIOUSLY TO THE CUBANS, SAYING WE WANTED TO CREATE CONDITIONS IN WHICH THE LEGACY OF THE PAST -- THE EMBARGO AND THE POLITICAL TENSION -- COULD BE OVERCOME. WE SUGGESTED A GRADUAL WITHDRAWAL OF THE MORE THAN 20,000 CUBAN TROOPS FROM ANGOLA. AFTER ALL, THE CIVIL WAR WAS OVER. WHILE WE TALKED, CUBA WENT INTO ETHIOPIA.

CONVERSATIONS CONTINUED. IN MID-1978, CUBA LAUNCHED UPON A NEW AGGRESSIVE STRATEGY IN CENTRAL AMERICA, UNITING THE LEFT PARTIES OF FIRST NICARAGUA, THEN EL SALVADOR, THEN GUATEMALA, COMMITTING THEM TO THE DESTRUCTION OF THEIR ESTABLISHED GOVERNMENT.

TALKS WENT ON. IN 1980, CASTRO TURNED THE DESIRE OF MANY OF HIS COUNTRYMEN TO FLEE CUBA INTO A HOSTILE ACT AGAINST THE U.S. -- THE MARIEL BOATLIFT.

IT IS NOT WRONG TO TALK TO ADVERSARIES. OFTEN IT IS ONLY PRUDENT.

BUT WHAT COUNTS IS NOT THE MEDIUM, BUT THE MESSAGE. TALKS CANNOT BE A COMPLETE CUBAN POLICY, ANY MORE THAN DIPLOMATIC EXCHANGES ARE A COMPLETE SOVIET OR POLISH POLICY. DIPLOMACY ENABLES US TO TALK TO THE GOVERNMENT. WE MUST ALSO TALK TO THE PEOPLE.

OTHERS ASK: SHOULD WE BE ASSOCIATED WITH "PROPAGANDA?"

NO, WE SHOULD NOT. WE WILL NOT SUCCEED IN ATTRACTING AN AUDIENCE IN CUBA IF WE OFFER THEM PROPAGANDA. IF THERE ARE FALSE REPORTS, THE LISTENERS WILL SOON REALIZE THE REPORTS ARE FALSE.. IF FALSE REPORTS CONTINUE, THEY WILL TURN OFF. ONLY BY RESPECTING ITS AUDIENCE CAN A PROJECT LIKE THIS SUCCEED.

SO IT MUST BE THE CREATURE OF NO POLITICAL TENDENCY, OF NO ACTION GROUP, OF NO VESTED INTEREST. WE HAVE ACQUIRED EXPERIENCE -- IN RADIO FREE EUROPE AND RADIO LIBERTY -- OF HOW TO DO THAT, EVEN THOUGH THE BEGINNINGS WERE DIFFICULT.

SOME PEOPLE SAY - THE THREAT FROM CUBA IS TOO GREAT, RADIO MARTI WILL INVITE MASSIVE CUBAN JAMMING, INTERFERENCE, RETALIATION. THEY SAY, CHANGE FREQUENCIES AND HURT SOMEONE ELSE, NOT ME, OR THEY SAY USE ANOTHER SYSTEM - FM, SW, TV, OUT-OF-BAND AM. SOME EVEN SEEM TO IMPLY WE SHOULD ABANDON OUR PLANS OUT OF FEAR.

WELL, CUBAN INTERFERENCE IS A PROBLEM, A SERIOUS PROBLEM, BECAUSE INTERNATIONAL RADIO BROADCASTING IS BASED ON COOPERATION, BUT CUBA HAS CHOSEN TO ACT AS AN OUTLAW. BUT CUBA'S LAWLESSNESS VASTLY PRE-DATES RADIO MARTI AND WILL CONTINUE TO EXIST IN THE FUTURE - WITH OR WITHOUT THIS NEW STATION.

THE TRUTH IS THAT WE DO NO KNOW FOR CERTAIN WHAT CUBA WILL DO ABOUT RADIO MARTI. IN AUGUST 1981 -- A MONTH BEFORE THE WHITE HOUSE ANNOUNCED PLANS FOR RADIO MARTI -- CUBA MADE KNOWN ITS INTENTION TO PUT A HIGH-POWERED STATION ON 1040 KHZ WHICH WOULD SERIOUSLY INTERFERE WITH WHO, DES MOINES, AND EVEN MORE WITH ANY RADIO MARTI BROADCASTS ON THAT FREQUENCY. HOWEVER, THIS WOULD ALSO CAUSE MAJOR PROBLEMS FOR BROADCASTERS IN OTHER COUNTRIES IN THE REGION AND WOULD CAUSE THE CUBAN STATION ITSELF TO LOSE EFFECTIVENESS BECAUSE OF MUTUAL INTERFERENCE WITH WHO AND RADIO MARTI.

WE ARE STUDYING VARIOUS OPTIONS, AMONG THEM, 1040 KHZ. THIS FREQUENCY APPEARS IN THE REGION II FREQUENCY PLAN FOR USE AT SADDLEBUNCH KEY, FLORIDA. ACCORDING TO THE FCC AND THE NTIA, THAT LISTING IN THE PLAN PERMITS US TO USE THE FREQUENCY

FOR RADIO MARTI. THAT MEANS ITS USE IS LEGAL AND HAS BEEN APPROVED BY THE COMPETENT AUTHORITIES IN THIS COUNTRY. THE CUBAN DELEGATION TO THE REGION II MEDIUM FREQUENCY BROADCASTING CONFERENCE ACKNOWLEDGED THAT INCLUSION OF 1040 KHZ FOR RADIO MARTI IN LIST B GRANTED IT INTERNATIONAL RECOGNITION AND LEGITIMACY. WHO, DES MOINES, ALSO APPEARS IN THE PLAN FOR 1040 KHZ. I CAN ASSURE YOU THAT THE RADIO MARTI INSTALLATION WILL BE DESIGNED SO AS NOT TO INTERFERE WITH WHO'S SIGNAL AS PROVIDED BY THE FCC RULES AND REGULATIONS. THE OPERATION OF RADIO MARTI AND WHO CAN BE TECHNICALLY COMPATIBLE. I DON'T BELIEVE THAT THERE IS ANY ARGUMENT ON THIS POINT.

ON THE OTHER HAND, IT IS POSSIBLE THAT THE CASTRO REGIME MIGHT ATTEMPT TO JAM RADIO MARTI WITH LOW-POWERED STATIONS SITUATED IN THE MAIN CITIES AND TOWNS OF CUBA. THIS WOULD BADLY INTERFERE WITH RECEPTION OF RADIO MARTI, BUT MIGHT HAVE A MINIMAL EFFECT ON WHO. IT IS ALSO POSSIBLE THAT CUBA MAY DO NOTHING. THE VOA HAS BEEN DIRECTING BROADCASTS TO CUBA FOR MORE THAN 21 YEARS AND CASTRO HAS RARELY SERIOUSLY TRIED TO JAM THESE BROADCASTS.

WHILE SOME AMERICAN OBSERVERS MAY HAVE DOUBTS AS TO THE POSSIBLE EFFECTIVENESS OF RADIO MARTI, CUBAN AUTHORITIES HAVE NONE. THEY FULLY RECOGNIZE THE POTENTIAL IMPACT OF RADIO MARTI AND TAKE IT VERY SERIOUSLY INDEED.

CUBA CAN MOUNT A JAMMING EFFORT. MANY REPORTS INDICATE PREPARATION OF STATIONS, INCLUDING A SO-CALLED RADIO LINCOLN, WHICH COULD EITHER JAM OR COUNTER-BROADCAST.

BUT THE MOST RECENT AND MOST AUTHORITATIVE STATEMENT WAS BY FIDEL CASTRO HIMSELF TO THE YOUNG COMMUNISTS UNION IN CUBA ON APRIL 4. SPEAKING OF RADIO MARTI, CASTRO SAID HE HOPES IT WON'T GO ON THE AIR BUT "...IF IN THE END THERE IS TO BE A

DIALECTIC CONFRONTATION BETWEEN THEM AND US, THEY WITH THEIR SUBVERSIVE STATION AND WE WITH OUR (ARGUMENTS IN) RESPONSE ... WE ARE PREPARED TO GIVE A SUITABLE RESPONSE..." THIS SUGGESTS THAT CASTRO HIMSELF IS THREATENING A STEPPED UP CAMPAIGN OF BROADCASTING TO THE US.

THUS, WHILE WE CANNOT SAY FOR CERTAIN JUST WHAT CUBA WILL IN FACT DO, THE STAGE IS SET FOR COUNTER-BROADCASTING RATHER THAN JAMMING. AND GENTLEMEN, WE HAVE NO FEAR OF ANYTHING CASTRO MIGHT SAY. THAT IS THE MAJOR DIFFERENCE BETWEEN COMMUNISM AND DEMOCRACY. DEMOCRACY THRIVES IN THE LIGHT OF CONTROVERSY; COMMUNISM PANICS AT THE SOUND OF TRUTH.

IN ORDER TO ESTABLISH RADIO MARTI, WE ARE REQUESTING $10 MILLION FOR FY 1982. OF THIS AMOUNT, $4.2 MILLION WILL BE DEVOTED TO THE CONSTRUCTION OF TRANSMISSION AND STUDIO FACILITIES, AND $5.8 MILLION WILL BE USED FOR OPERATING EXPENSES TO COVER PROGRAMMING, ENGINEERING AND ADMINISTRATIVE COSTS. FOR FY 1983, WE REQUIRE $7.7 MILLION, A REDUCTION OF $2.3 MILLION FROM THE 1982 REQUEST. THIS DECREASE IS A RESULT OF NON-RECURRING CONSTRUCTION AND ADMINISTRATIVE COSTS.

MR. CHAIRMAN, RADIO MARTI IS DESIGNED TO RESPOND TO A BASIC HUMAN NEED -- THE NEED TO HAVE ACCESS TO INFORMATION ON EVENTS AND POLICIES THAT AFFECT THE LIVES OF INDIVIDUALS. FREEDOM OF INFORMATION IS WHAT WE ARE TALKING ABOUT HERE, A FUNDAMENTAL FREEDOM RECOGNIZED BY EVERY RESPONSIBLE INDIVIDUAL AND GOVERNMENT IN THE WORLD. THIS RIGHT, THIS FREEDOM, HAS BEEN CONSISTENTLY DENIED TO THE CUBAN PEOPLE SINCE CASTRO CAME TO POWER IN 1959. RADIO MARTI WILL HELP FILL THIS LONGSTANDING INFORMATION GAP.

THOSE OF US WHO HAVE LIVED IN A COMMUNIST STATE WILL KNOW JUST HOW MUCH RADIO MARTI CAN AFFECT THE LIVES OF CUBANS.

FOR THOSE OF US WHO HAVE NOT, IT IS AN OPPORTUNITY TO OFFER THE CUBAN PEOPLE HOPE AND THE MEANS TO MAKE INFORMED JUDGMENTS ON THE ACTIONS OF THEIR OWN GOVERNMENT. FOR A PEOPLE BOTTLED UP IN A SYSTEM OF OPPRESSION WHICH THEY DID NOT SEEK AND CANNOT REMOVE, THAT CAN BE PRECIOUS.

MR. CHAIRMAN, I WILL BE PLEASED TO ANSWER ANY QUESTIONS THE COMMITEE MIGHT HAVE REGARDING THIS REQUEST.

RADIO BROADCASTING TO CUBA
Salaries and Expenses
($ in thousands)

ESTIMATE by Budget activity	1982 Estimate		1983 Estimate		Increase or Decrease (-)	
	Pos.	Funds	Pos.	Funds	Pos.	Funds
A. Programming	148	$2,962,000	148	$5,078,000	--	$ 2,116,000
B. Engineering:						
1. Operations	—	1,282,000	14	842,000	14	-440,000
2. Construction	—	2,970,000	--	--	--	-2,970.000
Sub-Total Engineering	—	4,252,000	14	842,000	14	-3,410,000
C. Administration	20	2,786,000	20	1,780,000	—	-1,006,000
TOTAL:	168	10,000,000	182	7,700,000	14	-2,300,000

BUDGET CONSTRAINTS

Senator WEICKER. My first concern relates to the fact that this is obviously a period of extreme constraint insofar as the budget is concerned.

Mr. ENDERS. Absolutely.

Senator WEICKER. Indeed, I just told Secretary Kennedy that it very well might be that if we go to a freeze at the 1982 levels that many of the matters which he has placed before us, not the least significant of which, I suppose, is the security personnel to protect our State Department people overseas, even items like that might be in jeopardy.

We are going to have to make some choices around here, and I suppose what I find difficulty with is confronting that economic condition; priorities have to be laid out.

I just don't think the State Department budget is going to come sailing through here without taking a few nicks along the way.

Having said that, to have the Americans finance to the tune of $10 million a propaganda battle over the air waves of Cuba, I will tell you, it sets pretty far down the list.

I must confess to you that I, myself, look upon this as sort of a 1950's response to a 1980's problem.

You are right, I an concerned about the Soviet presence in Cuba and that whole part of the world, but it seems to me that there are far better ways to go at it than to sit here and create a whole new entity and a whole new bureaucracy to try to resolve in a simplistic way a really very, very complex problem.

When was the last time that you were in Cuba?

Mr. ENDERS. I have never been in Cuba.

Senator WEICKER. We have a facility there. It is not as if we were totally cut off. I have read your statements in detail, and I am just wondering whether it wouldn't be wise to try to gain background, in terms of personal experience, to a greater extent.

I worry because I think both you and I have the same objective in mind, which is to, somehow, untie this Gordian Knot, and I, as I complimented the Secretary when he was here a few minutes ago on whatever ongoing efforts there are, the dialog, whatever you want to call it—I won't formalize it or give it a name—I think that is all to the good.

The Caribbean basins proposal, I think, is outstanding. I think all of that on the one hand, and then I see this which, to me, totally refutes the sophisticated reasonable approaches of trying to untie the knot or to get a little justice as to whether, indeed, we are making progress or whether we are still going to consider a name-calling contention over the Florida Straits as being a substitute for sound foreign policy in this area.

It is a total dichotomy that is being presented by the administration. I fully compliment them totally on these other two initiatives but this, to me, to have anybody feel that this is going to improve anything. A long-term effort, you say long-term effort.

My God, I would hope within a far shorter period of time we would have a better direction to go in.

SITUATION IN CUBA

Mr. ENDERS. Lowell, first let me say that this does not involve an actual increase in authorizations. Of course, with the net increase, there is a budget offset for us. I think staff has probably made you aware of that, an item that more than offsets this.

Second, I would like to say a word about this being a 1950's response to an 1980's situation.

I think that most people would think that Radio Liberty and Radio Free Europe are, in fact, very important in Eastern Europe. I think we found that out during the Polish crisis of last year. But what we have in Cuba, it is a 1950's situation. We have a classic Communist dictatorship with the same leadership that was there before, almost without change as it came out of the mountains.

If you look at its composition, it is probably purer now than it has been in the course of the early 1970's in terms of its origins being from the early revolutionary movement.

People around Castro are very much like him. In the 45 to 55 year range, they are very homogeneous. They have been committed to revolution and Communism all their lives. They have pursued their ideas, single-mindedly, in their own country and abroad. And the kind of country they have run with this extraordinary domestic stagnation on the one hand and foreign adventures on the other, is the classic model that we came to fear in dictatorships in the 1930's: the domestic repression around foreign adventurism.

Sure, we would like to find a way to see them break out of that, and that is why this long experiment in talks in the last administration, which failed totally, was undertaken. It failed totally, totally, in spite of, I think, very substantial goodwill put into it by the United States.

It certainly didn't result in more reasonable international behavior; it resulted in more irresponsible international behavior.

You say that you would hope for a short-term response. Sure, we would hope a short-term response could take place, but given the staying power of this regime and of its leadership, is that really realistic to expect?

Senator WEICKER. I think you answered your own question when you say given the staying power. They're there. They have been there, and they're there. I don't see any change.

Mr. ENDERS. Have they really changed in the last 20 years? They are doing the same things they did in the first days, aren't they?

Senator WEICKER. Yes; but there is a big change, Tom. You have got a Soviet Union in this hemisphere. I want to change a foreign policy that this Nation has been stuck with for 30 years that has succeeded in putting the Soviet Union right in our midst. Before we had to deal with dictators, period, and we are still dealing with them now, but at least we didn't have the Soviet Union there.

This is going to get them out of here, now? A little radio broadcasting over to Cuba?

Mr. ENDERS. We feel that they ought to have the pressures other governments feel from their own people.

CUBAN ECONOMY

Senator WEICKER. Tell me what effect you think our embargo has had? What effect do you think it has had?

Mr. ENDERS. I think the embargo has had the effect of making it, in fact, much harder for Cuba to grow economically. I think that is true.

Senator WEICKER. Tom, they trade with every other nation in the world except the United States. It is not a question just of the Soviet Union. Granted, the cheap oil comes from the Soviet Union and the high price paid for sugar comes from the Soviet Union.

Every other nation in the world, every other democratic nation, every other ally of the United States is in Cuba. I think it is absolutely misleading the American people to indicate that our embargo, for some reason, has choked them off economically. If it is, that would be one thing.

Mr. ENDERS. I didn't say that, Lowell. I said it affected their growth. Don't you think that is true?

Senator WEICKER. No; I think, quite frankly, they have grown quite as much as they can grow under a Marxist-Leninist economic theory. I think what they want to do probably isn't working and they want to go look in some other direction. Much of their limitation, I think is self-imposed

Mr. ENDERS. It is a country that is not much different now than 20 years ago. Its growth rate is the worst in Latin America. It started out with a lot of national education. It had a very high education level. It was better off than most of the other countries 20 years ago.

Senator WEICKER. It depends on where you were, Tom.

Mr. ENDERS. In terms of rate of literacy, I think it is.

Senator WEICKER. Do you think it is worse today than it was 20 years ago?

Mr. ENDERS. No; but as it compared with other Latin American countries 20 years ago, it was better off. It was already better. It is relatively lower now, but it is higher than most Latin American countries.

Senator WEICKER. I gather you are unhappy with the measures that were taken in the Carter administration? Do you feel you ought to close down the interests section?

Mr. ENDERS. No; we are not proposing to do that.

Senator WEICKER. That was a definite plus, wasn't it, in terms of the line of communication?

Mr. ENDERS. I think there is a very strong case for maintaining communications with adversaries, and this is one way of doing it. Direct talks, which you have seen an example of with the Secretary of State, are another way of doing it.

Senator WEICKER. Again, if we had all the money in the world, I would say the administration should certainly have its way in these matters. On the other hand——

BUDGET OFFSET

Mr. ENDERS. This is no addition to the——

Senator WEICKER. What is the story on that, Claudia?

Ms. INGRAM. It is a net addition to the appropriation before the subcommittee. That is an addition of $10 million in the 1982——

Senator WEICKER. With an offset for 1982.

Ms. INGRAM [continuing]. And $7.7 million in 1983.

Mr. ENDERS. With an offset for 1982. You are not aware of that?

Ms. INGRAM. No; I'm not aware of that.

Senator WEICKER. You are appearing here before me. You are telling me you have an offset. I have no conclusion.

Mr. ENDERS. An offset was presented in November at the same time that this proposal was presented. The two were presented together as a result of the usual processes through OMB. I don't mean to say, Senator, that the offset was—that there was a change in policy in order to provide way for this, but $26 million was returned under the migration and refugee assistance account.

Senator WEICKER. What you are telling me is that you achieved a savings in another appropriation under another committee, is that correct? Doesn't that come under foreign aid?

Mr. GROVE. I am from the State Department Budget Office. In November several fiscal year 1982 budget changes were sent to Congress in one package. If you look at these changes and the overall budget situation, at the same time this $10 million supplemental was sent to your subcommittee for Radio Marti, there was a proposed reduction in the migration and refugee assistance appropriation of $26 million which is in our overall budget but under jurisdiction of the Foreign Operations Subcommittee. These were two independent events which happened. But in our overall appropriations totals there was not an increase. That is what Ambassador Enders is referring to.

Mr. ENDERS. That was the result of very substantial discussions within the administration. It was clearly the desire of OMB and the administration as a whole to avoid an increase in the 150 account, Senator.

Senator WEICKER. Let me say this as to the matters before this subcommittee: It is not an offset, period. How you people juggle your figures out there in a lot of other accounts, it is not what we take into account in the deliberations of this committee.

Mr. ENDERS. But it is an offset for the Government, as well.

Senator WEICKER. It is also true there are a lot of other items out there that have to be taken into consideration as to whether or not we shouldn't use this money saved in this area to go ahead and apply to some other area.

Mr. ENDERS. Clearly that, clearly that.

ATTITUDES TOWARD RADIO MARTI

Senator WEICKER. In that regard, I think that your feelings are made well known in this statement. As I said, I find it difficult to be as critical as I would want on the basis of the statement for Radio Cuba because I think that there has truly been, by that administration, by you and by the State Department, some very innovative steps taken, both in terms of the proposed Caribbean basin program, in terms of whatever discussions are taking place between the administration and Cuba.

I just find this to be a dinosaur in relation to these other efforts. Otherwise I will tell you right now—and my statements are well known as to what ought to be done—otherwise, I would certainly come down on this a lot harder than I have. Regardless of what my feelings are, and those can be judged by the subcommittee, I think we are going to get a great deal of questioning by other members of the committeee as to why we are launching into this initiative at this particular time when we are having to scrap funds to finance worthier projects.

ADDITIONAL COMMITTEE QUESTIONS

I have got other questions which I will go ahead and submit for the record for a response for the record, and I thank you very much.

Mr. ENDERS. Thank you, Lowell, very much.

[The following questions were not asked at the hearing but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

Authorization

Question: An authorization for Radio Broadcasting to Cuba has yet to be enacted.
Is it the Administration's intent to request an appropriation for this activity contingent upon the enactment of authorizing legislations?

Answer: Yes, the Administration has requested an appropriation for this activity contingent upon the enactment of authorizing legislation.

Legislation

Question: Legislation submitted by the Administration would place Radio Broadcasting to Cuba initially under the oversight of the Department of State. Do you think that the broadcasts of Radio Marti will be perceived as truly independent of U.S. political influence under this arrangement?

Answer: Regardless of where the oversight responsibility is placed, Radio Marti will have to earn its credibility over a period of time just as did RFE/RL by adhering to truth and insuring that its news and commentaries are accurate, balanced and, where possible, verifiable by the Cuban listeners themselves.

Question: The House reported legislation would place Radio Marti under the authority of the Board for International Broadcasting which oversees Radio Free Europe and Radio Liberty. Does the Administration oppose this arrangement?

Answer: Under the legislation originally proposed by the Administration, the Secretary of State would oversee the operations of RBC, Inc., until the designation of an appropriate oversight agency. This interim arrangement would be similar to that followed when VOA and RFE were first established until oversight responsibility was formally given to USIA (now USICA) and to BIB, respectively. It would be the intention of the Administration to consult with the Congress again next year on the subject of oversight and to make recommendations then based on RBC's first year of operations. Under the bill approved by the House

Foreign Affairs Committee last month, the Board for International Broadcasting would be given immediate oversight for radio broadcasting to Cuba. However, if the Congress decides to place RBC under the BIB, the Administration would not object.

Question: We are currently approving a major expansion of VOA's broadcast capability to the Caribbean including Cuba. In light of these actions, why is it necessary to provide for another government-sponsored radio broadcast to Cuba?

Answer: The mission of the Voice of America, as set out in the 1976 Charter granted by the Congress, is vastly different than that contemplated for Radio Marti. The VOA is designed to be a reliable source of news and information for all countries of the Hemisphere on national and international news as well as explain official U.S. policy, American society and institutions. Radio Marti, on the other hand, will provide a highly targeted information and news service of interest primarily to Cuban listeners, much in the manner of RFE/RL broadcasts to Iron Curtain countries. Therefore, a separate news and broadcasting system is required.

Question: What can Radio Marti provide that VOA, BBC, and Miami Commercial Radio cannot provide?

Answer: Radio Marti is envisaged as a consistently reliable accurate surrogate "home service" source of news and information about Cuba. It is expected to focus on the government's mismanagement of domestic affairs and its international adventurism while, at the same time, underscoring the high cost this imposes on the living standards of all Cubans.

This service cannot be provided by the VOA, which projects American society and institutions, the BBC, which serves the British government, nor commercial stations which are geared to local U.S. audiences and often also reflect partisan political views.

Programming

Question: What kind of programming is contemplated? How much of it will be news and public opinion broadcasting as opposed to sports and other entertainment and why are you broadcasting two soap operas?

Answer: As a surrogate "home service" Radio Marti should have a broad-based appeal. Preliminary thinking is that the program would consist of about 14 hours of broadcasting per day, seven days per week. It would provide news and news-related material with the balance music, entertainment and non-political features -- all selected for special relevance to the Cuban audience. For example, non-news programming might include:

excerpts of earlier Castro speeches, political satire, radio drama series (a novela tracing the evolution of a Cuban family through several generations, beginning with the struggle for independence in the 19th Century and continuing through the anti-Batista struggle and present-day life with some family members supporting the regime, others opposing it -- some in exile, some remaining on the island), popular music, and sports programs.

Indemnification to U.S. Broadcasters

Question: The authorization bill that has been reported by the House authorizes the government to compensate U.S. broadcasters for expenses incurred in mitigating the effects of Cuban interference.
Have you estimated the costs of provision to the Federal Government?
Does the Administration support the provision?

Answer: We were pleased with the recent favorable vote by the House Foreign Affairs Committee on the bill to authorize support for radio broadcasting to Cuba (H.R. 5427). But the Administration thinks that the provision under Section 6 (a) authorizing the Board for International Broadcasting to compensate U.S. broadcasters for expenses incurred in mitigating the effects of Cuban radio interference should be held in abeyance pending further study.

While the Administration is acutely aware of the problem of Cuban interference and the need to deal effectively with it, we believe that any plan to compensate U.S. broadcasters should be the result of careful analysis of the problem and its impact in view of the technical complexity and question of precedent involved. Accordingly, we welcome the establishment of a task force to deal with the interference problem, as provided for in Section 6(b) of the bill, and see it as the logical body to address the question of compensation as well.

In order not to delay putting Radio Marti on the air once the bill is passed, it is the Administration's strong preference that the provision authorizing compensation payments not be included in this bill, which in any case does not provide funds for that purpose. The compensation question should be postponed until the task force authorized by the bill makes its recommendations. Compensation could then be considered in separate legislation at a later time.

Effects on Other U.S. Stations

Question: A number of U.S. radio stations are concerned that Cuba's response to Radio Marti will be to interfere with U.S. broadcasting. The ramifications of which we are informed could affect as many as 200 radio stations. Have you examined what effect Cuban interference would have? What have you done to address these concerns?

Answer: Radio Marti and Cuban interference are separate issues. Cuba has for years been interfering with broadcasting, well before Radio Marti was proposed. In addition, propaganda broadcasts to the U.S. from Cuba by Radio Havana and Radio Moscow have also been going on for years. Cuba announced plans for several new radio transmitters, including two 500 KW stations, in 1979 just when the U.S. was attempting to improve relations. These two large transmitters, one of which is on the air on 1160 kHz and the other of which may be ready for use, will cause extensive interference to two frequencies in the U.S. Cuba may try to make Radio Marti a scapegoat for continued interference, despite the fact that interference existed before the announcement of Radio Marti and would probably continue without it. The potential effect of Cuban interference has been adequately addressed by the National Association of Broadcasters and others who have testified before the Presidential Commission on Broadcasting to Cuba.

Within the past year, the FCC has approved temporary power increases to several Florida AM stations to permit them to recover service areas affected by continuing Cuban interference.

The USG will continue to monitor Cuban interference with U.S. radio stations and explore ways to deal with this interference.

Programming

Question: Did you survey the extent to which U. S. commercial radio is currently available and listened to in Cuba?

Answer: While it is true that Spanish language broadcasts by commercial stations in Florida can be heard in parts of Cuba, the information provided by these stations is far different from that planned for Radio Marti.

The private U. S. commercial stations are geared primarily to the listening tastes of their local audience which forms the rate base for their advertising revenues. The program content of these stations does not address the needs of listeners in Cuba and is too partisan to serve the interests of the United States Government.

Because of their distance from Cuba, insufficient power, and antennae not designed for broadcasting to Cuba, these stations can be received in only limited areas of Cuba and cannot provide blanket coverage, as envisaged for Radio Marti. Radio Marti's transmitter would be located in the Florida Keys and would have a directional antenna. Even then Radio Marti would have to build a second transmitter to reach Eastern Cuba. In testimony submitted to the House Foreign Affairs Committee on March 3, the South Florida Radio Broadcasters Association stated clearly that "commercial operations are a poor substitute for the proposed Radio Marti."

Use of Medium Wave Band

Question:	Is the U.S. restricted in any way from using medium-wave transmission for direct international broadcasts under existing radio treaties or agreements?
Answer:	While the International Radio Regulations state that "in principle" the AM band is for domestic service, in practice it is well established that this band is also used for international broadcasting. Radio Marti's use of 1040 kHz would be entirely appropriate. In fact, U.S. use of 1040 has already been accepted by the ITU as part of the frequency assignments in "List B" of the plan.

Revised 1982 Requirements

Question:	$10.0 million was requested in the 1982 supplemental. This contemplated having funds available for as long as 6 months in 1982. Realistically, it is unlikely you will get these funds until a June supplemental. On this basis, your 1982 program and hiring must be revised. What are your actual 1982 spending needs -- assuming funds are available on July 1st? Also, what effect will this have on your 1983 funding needs?

Answer: Actual funding needs for FY-1982 would be reduced by $1,000,000, based on a July 1, 1982 funding availability. The largest part of this reduction is under salaries and benefits amounting to $589,000. The remaining $411,000 is under such categories as travel, communications, utilities, rents and other services.

Studio Facilities

Question: The budget request for Radio Broadcasting to Cuba shows that over $1 million will be spent to build studio facilities in Washington, D.C., New York City, and Miami.
What analysis has been made regarding Radio Broadcasting to Cuba using any of the existing VOA or RFE/RL studios?
If there has been no analysis, is it feasible to share these facilities?

Answer: After a careful review of existing VOA and RFE/RL facilities, we found that it would be difficult, if not impossible, for the Voice of America to share its studio space with Radio Broadcasting to Cuba since the VOA does not have adequate space for its own current needs, not to mention plans for expanded language services. As for Radio Free Europe/Radio Liberty studios, their principal facilities are located in Europe and thus would not be of any value to RBC.

Automated Transmitters

Question: The Voice of America has requested approval to expand its medium-wave broadcast coverage of the Caribbean region. About $11 million was requested to establish two fully automated stations on Grand Turk, one on Grand Cayman, and to replace existing stations in Antigua and Florida with new automated transmitters. Presently, VOA operates its 50 KW Marathon Florida Relay Station for about $260,000 annually with a staff of six. Each new station is expected to function automatically without permanent operating staff at an annual operating cost of about $85,620.
Why is Radio Broadcasting to Cuba not using fully automated transmitters?

Answer: Initial inter-agency studies for RBC were based on standard transmitter installations, including possible use of very remote sites. At present, we believe that security - a special concern of Radio

Marti - and efficiency require that a staff be present. However, we will certainly explore alternatives before expending funds.

Transmitters

Question: Radio Broadcasting to Cuba's engineering budget requests $1.1 million for a transmitter in Florida and $1.9 million for a second transmitter in the Caribbean. The estimated annual operating maintenance contract for the Florida transmitter is $150,000. The plans call for the Caribbean transmitter to have a technical staff of 9 Americans and 5 foreign nationals with an estimated operating maintenance cost of $300.000 for six months in FY 1983.
Why is it necessary to have two transmitters? What is the target area for each?

Answer: Two transmitters are necessary to cover all of Cuba with the broadcast signal of Radio Marti. The transmitter in Florida will reach Havana and the western part of Cuba. A second transmitter must be located in the Caribbean to reach the eastern end of the island where more than half of the Cuban population is located.

Question: Will either transmitter be co-located with VOA transmitters in the area? If not, should they be?

Answer: Financially, there is little or no advantage to be gained by co-locating VOA and Radio Marti transmitters. Each would still have to have its separate antenna array. Politically, it is undesirable to associate the two broadcasting systems with one another. Each has its own mission and the distinction must be kept sharply in the minds of target audiences. For this very reason, Radio Free Europe and Radio Liberty maintain separate identities and operations from those of the VOA.

Question: Why is the Florida transmitter to be operated by a contractor while the Caribbean transmitter is to be operated by a permanent staff of 14?

Answer: In Florida, we hope to tie in to an existing contract for transmitter maintenance that would be advantageous to the U.S. Government. In the Caribbean, this will probably not be possible; we must plan to provide our own technical and service staff to do the work.

Question: What efforts have been made to lease broadcast time from existing commercial broadcasters both in the U.S. and the Caribbean region or other international broadcasters including VOA?

Answer: The Commission has investigated the possibility of using VOA shortwave facilities and finds various problems associated with this proposal:

(1) Very few Cubans have shortwave receivers.

(2) Available time on VOA shortwave transmitters is insufficient for effective program schedules contemplated for Radio Marti. The VOA uses these transmitters not only for Spanish and Portuguese broadcasts to Latin America, but also to beam other language programs to additional parts of the world.

As for using VOA's Marathon transmitter (AM), there are four principal arguments against this:

(1) The Marathon transmitter is already fully utilized in broadcasting VOA programs during prime time (0630 - 0900; 1900 - 2200 EST), some of the same hours required for Radio Marti's contemplated 14 hour broadcast schedule.

(2) The VOA charter does not contemplate a surrogate "home" service, like Radio Marti.

(3) We do not wish to confuse the VOA with Radio Marti.

(4) Using Marathon's frequency of 1180 kHz instead of the 1040 kHz assigned to Radio Marti could merely direct any resultant Cuban interference to WHAM of Rochester, which operates on 1180 kHz. The 1040 kHz frequency was chosen after an exhaustive search of the radio spectrum by FCC which showed it to be the frequency that would cause the least interference with U.S. broadcasters.

As for the use of private commercial stations, such an arrangement might be difficult because:

(1) Private stations might be reluctant to give up prime time for Radio Marti, since this might affect their own commercial viability. The cost to Radio Marti, therefore, for leasing this prime time might be quite high.

(2) Because of their distance from Cuba, insufficient power, and antennae not designed for broadcasting to Cuba, these stations can be received in only limited areas of Cuba and cannot provide blanket coverage, as envisaged for Radio Marti. Radio Marti's transmitter first would be located in the Florida Keys and would have a directional antenna. Even then Radio Marti would have to build a second transmitter to reach Eastern Cuba. In testimony submitted to the House Foreign Affairs Committee on March 3, the South Florida Radio Broadcasters Association stated clearly that "commercial operations are a poor substitute for the proposed Radio Marti."

(3) Further, private stations are often identified with partisan positions, whereas Radio Marti would be non-partisan.

Question: VOA presently broadcasts to Cuba only about 6 hours each day from its Marathon Relay Station. Could Radio Broadcasting to Cuba's transmitter requirements be met by using VOA's idle transmitter time?

Answer: Such use would be both ineffective and counter-productive. It is ineffective because the Voice of America now uses the transmitter in prime time, the same time that would be required by Radio Broadcasting to Cuba to reach its target audience. The VOA at present utilizes the prime hours of 0630 to 0900 EST each morning and 1900 to 2200 EST each evening. Furthermore, the VOA, at some point, hopes to increase its broadcast schedule by several hours. Radio Broadcasting to Cuba, for its part, plans initially to broadcast 14 hours per day. We also believe that it would be counter-productive to use the same transmitter as the VOA because of the confusion it would create in Cuba. As noted earlier, we believe that care should be exercised to avoid creating the perception in Cuba that the VOA and Radio Broadcasting to Cuba are one and the same. Each station has its own mission that remains unambiguously different. For the same reason, RFE/RL and VOA have purposely maintained separate facilities and identities.

Question: Could Radio Broadcasting to Cuba use the existing transmitter in Marathon once it is replaced by VOA's new automated transmitter?

Answer: The Voice of America advises us that the transmitter is old and obsolete and should be replaced by new and more efficient, modern equipment. We would still have to put up a four-tower directional antenna for the frequency assigned to Radio Broadcasting to Cuba even though we were to take over the VOA cast-off transmitter.

Question: Are there any plans to work with VOA to consolidate procurement of transmitters?

Answer: We have no authority to enter into any agreement with other agencies at this time. However, if legislation is approved, there is no reason to preclude cooperation.

Programming

Question: Radio Broadcasting to Cuba is to provide a "home radio service" to the Cuban people as an alternative to the Cuban Government's monopoly service. Has a study been made to analyze and compare the news, cultural programs, etc., heard over Cuban-owned radio and television stations with broadcasts received from BBC, VOA, other international broadcasts, U.S. commercial stations, and other radio stations in the Caribbean? If so, what were the results?

Answer: Based on reports from the U.S. Interests Section in Havana, as well as from the FBIS monitoring service, it is clear that Cuban domestic broadcasts provide a highly distorted coverage of internal and external events. While the VOA, BBC and U.S. commercial stations give an accurate version of international news, none provides the kind of comprehensive programming for the Cuban people envisaged for Radio Marti, nor can they, given their own mandates and different audiences.

RBC Funds Shifted to VOA

Question: Explain why it is apparently better to start a new organization that will duplicate existing VOA technical, administrative, news collection, and some program functions rather than take half of this request and earmark it for VOA to expand its programming to include broadcasts specifically targeted for Cuba.

Answer: The VOA Charter, granted by the Congress in 1976, does not permit the VOA to become a surrogate broadcasting service to a single country. Funds transferred to the VOA could not be put to the use designed for Radio Marti which is to target a single country to discuss the adventurism of its government abroad and the mismanagement of its domestic affairs, much in the manner employed by RFE/RL to the countries of Eastern Europe and the Soviet Union. Further, it is very important to maintain the independence of the VOA. Because the missions and editorial goals of the two radio stations are different and distinctive, it would not be possible to make use of the same staff for their respective broadcasts.

Personnel Levels

Question: The budget request for FY 1983 shows a staffing level of 182 full-time positions. What bases were used to establish the staffing needs?

Answer: After using the staffing levels of Radio Free Europe/Radio Liberty as a guideline for preparing initial staffing estimates, we consulted with experienced personnel at both the Voice of America and the Board for International Broadcasting to determine staffing requirements for Radio Broadcasting to Cuba.

Question: What bases are to be used to establish the personnel compensation and benefits?

Answer: Pay, benefits, and travel assessments for Radio Marti were based on rates paid by the VOA for comparable employees. However, if employed through RBC, Inc. as now contemplated, these would not be U.S. Government employees.

Staffing Level

Question: What is the normal operating staffing level of a commercial station?

Answer: There is no one formula for figuring out staffing levels for commercial, or, indeed, publicly funded stations. It all depends on the size and type of the market it hopes to serve, and the size, scope and nature of its programming. There are some stations that can function with a disc jockey/newsreader/commercial announcer all wrapped up into one person. Others will have elaborate news and sports programming that will require 150 to 200 employees. It simply boils down to what kind of operation you have in mind and what backup facilities you have at your disposal. For most commercial stations, the minute you stop playing music and switch to a news/talk format, you triple your staff. If, on top of that, you are not affiliated with a radio network such as NBC, CBS, or ABC, you have to then double this figure. Radio Marti will be, essentially, a one station news/talk "network." KMOX, a commercial station in St. Louis, has a staff of 130 persons for its news/talk program and yet is affiliated with the CBS radio network, from which it receives substantial support. While this is a large station, it is by no means the largest in the U.S. today.

Personnel Levels

Question: There is a rule of thumb that it takes about 10 staff members to produce an average of one hour of first-run programming per day 7 days a week. How many of the 172 staff will be involved in the actual development and broadcasting of programs?

Answer: One hundred forty-eight positions would be involved in one way or another in the development and actual broadcasting of programs. These positions were discussed at great length last year with officials at the Voice of America and the Board for International Broadcasting. A further review by others at the BIB confirmed that the recommended staffing levels were justified and closely approximated those of RFE/RL.

RBC Organizational Structure

Question: Describe the organizational structure to be used in operating Radio Broadcasting to Cuba.

Answer: Radio Marti would have an organizational structure similar to that of the Voice of America and of Radio Free Europe and Radio Liberty. As now contemplated, it will be operated through a contractor which will receive grants from an oversight agency, initially the Department of State. Final oversight responsibility has yet to be decided. Radio Marti would be headed by a president and vice president, assisted by legal, administrative, programming and engineering personnel.

Wire Services

Question: The budget request shows $600,000 for wire services in 1983. VOA's wire service costs are estimated at $1.1 million.
What wire services are to be used?

Answer: The wire services contemplated for use by Radio Marti are: The Associated Press (including Spanish service), the United Press International, Reuters, Caribbean News Agency, Foreign Broadcast Information Service and Spanish news Service EFE.

Question: Why are the wire services costs for Radio Broadcasting to Cuba, which will broadcast 98 hours a week compared to VOA's 981 hours a week, over half of what VOA's costs are?

Answer: While Radio Broadcasting to Cuba will have a modest program schedule compared to the Voice of America, it will, nevertheless, require most of the basic news services taken by the VOA. This is necessary to provide adequate, verifiable source material for our broadcasts. Like the Voice of America, Radio Broadcasting to Cuba will use no newsstory unless it can be verified by a second and sometimes third independent new source. This is a basic requirement we must insist upon if we are to develop a credible and dependable news and information service.

Presidential Report on International Broadcasting

Question: In 1977, the President's report to the Congress on U.S. International Broadcasting addressed the question of whether U.S. purposes could be effectively served by initiating in other parts of the world broadcasting operations similar to those of RFE/RL to promote the free flow of information wherever it is denied or restricted by other governments. The report concluded that among other problems the requirements for prime time broadcasting would place such a system in direct competition with VOA. The report further concluded that the VOA system already goes a long way toward meeting the need that is implied by the question. It does provide for the free flow of that information which is judged to serve the interests of the American government and the American society as a whole.
What consideration has been given to the conclusion in this report?

Answer: While it is true that the Presidential report concluded that RFE/RL could be in competition with the VOA for audiences in prime time, it also concluded that "duplication of languages by VOA and RFE/RL is implicit in the separate missions of the two radios." We are entirely in accordance with the report's view that "the distinctive and distinguishing elements of the missions of the two radios...remain valid." The VOA's objective is to present world and U.S. news, articulate U.S. foreign policy and present American values and opinions. Radio Marti's objective is to convey suppressed and otherwise unavailable information about Cuba in the belief that the dissemination of unfettered information may result in more responsible leadership there. We believe, as did the Presidential report, that U.S. policy interests are served by the missions of both radios.

QUESTIONS SUBMITTED BY SENATOR DANIEL K. INOUYE

Need for RBC

Question: In a time of Federal Government retrenchment, why is it proposed to establish a new organization merely to broadcast to Cuba?

Answer: The establishment of Radio Marti is a logical and necessary extension of the process of providing "freedom of information" begun years ago by the Congress with the creation of Radio Free Europe and Radio Liberty. The Cuban government has a monopoly on the distribution of news and information within its borders that distorts and censors the activities of its government at home and abroad. The Administration believes that the people of Cuba, like the peoples of Eastern Europe and the Soviet Union, should know the costs of Castro's foreign adventurism and learn what the state really does with the country's wealth.

The President has deemed this project of sufficiently high importance to have it included within the total of the FY-82 budget.

Transistor Radios for Cuba

Question: How much would it cost to mail the Cuban people gift transistor radios that they could use to listen to the many Florida Cuban-language stations?

Answer: The cost of postage for an eight-ounce radio package mailed to Cuba from the United States would be $5. A transistor radio capable of receiving broadcasts on medium wave from Florida would cost approximately $10 if there were a substantial order placed with the manufacturer.

Medium wave (AM) radio receivers, however, are not in short supply in Cuba. Uncensored, reliable and comprehensive news and information about the costs of Cuban adventurism abroad and mismanagement at home is what is in short supply there. The Florida stations do not provide this information adequately, but Radio Marti would.

Relations with Cuba

Question: How does the establishment of Radio Marti improve our relations with Cuba?

Answer: Cuba's aggressive foreign policy and military collaboration with the Soviet Union raises questions about whether Cuba has any genuine interest in improving relations with the U. S. or becoming a responsible member of the international community. In these circumstances, the establishment of Radio Marti should not be considered an obstacle to rapprochement but as an attempt to moderate the behavior of the Cuban government and to make it more accountable to its own people.

The Purpose of Radio Marti

Question: If Radio Marti isn't supposed to improve our relations with Cuba; just what is the purpose of this operation?

Answer: The purpose of Radio Marti is to broadcast to Cuba information and programs similar to those beamed behind the Iron Curtain by Radio free Europe and Radio Liberty. By providing comprehensive and reliable news, analysis and commentary, Radio Marti can help the Cuban people gain a clearer understanding of their government's adventurism abroad and mismanagement at home. This has been difficult until now because of Castro's monopoly on the dissemination of information within Cuban for some 20 years.

BBC Broadcasts to Cuba

Question: Does not BBC afford the Cuban people with a fair idea of what is going on inside Cuba as well as about Cuban activities abroad?

Answer: Like the VOA, the BBC provides only limited information on Cuban activities abroad and even less on Cuban domestic developments. The BBC's mandate does not include a special focus on Cuba. As noted in our response to a similar question from Senator Weicker, the information provided by the BBC and other broadcasters is far different from that contemplated for Radio Marti, which is to serve as a surrogate "home service" for the Cuban people.

Need for News Broadcast Entity

Question: Part I of Report 97-479 of the Committee on Foreign Affairs of the House of Representatives indicates that Radio Marti is needed because the United States lags in broadcasting to the Caribbean. A table on page 4 of that report shows that Cuba broadcasts 280 hours per week in the region, BBC 186, the Soviet Union 133, West Germany 93, and the Voice of America fifth with 84 hours per week.
Since the need is dramatized by the number of hours that VOA broadcasts, why don't we just beef-up VOA's broadcasts instead of creating a new entity?

Answer: The VOA charter granted by the Congress in 1976 does not permit the VOA to become a surrogate broadcasting service to a single country. The VOA broadcasts are directed at eighteen Spanish-speaking countries of this Hemisphere of which Cuba is but one. Radio Marti is being created to target a single country in the same way that RFE/RL broadcast to the countries of Eastern Europe and the Soviet Union.

Cuban Interference with U.S. Radio

Question: The following answer addresses questions 7-8.
There is a fundamental difference between RFE/RL and Radio Marti, in that RFE/RL broadcasts to an area that can't broadcast back to us. Has not the Cuban government indicated that they will jam Radio Marti with two 500-kilowatt transmitters?
What impact would those 500-kilowatt transmitters have on broadcasting in the United States?

Answer: The government of Cuba has never said that it would jam Radio Marti, certainly not with an exceptionally expensive 500 KW transmitter. In 1979 Cuba announced plans to broadcast on several new transmitters, including two "super-powered" 500 KWs. These two large transmitters, will cause extensive interference on two frequencies. Cuba may try to use Radio Marti to justify this interference even though the intention to use these transmitters was announced years before Radio Marti had been contemplated. It would clearly be intolerable to let the specter of Cuban radio interference deter us from establishing Radio Marti, which will conflict with neither with domestic nor international obligations and which is in our national interest.

Question: Senator Grassley and representatives of Radio station WHO in Des Moines, Iowa, have stated their concerns to the Subcommittee about Radio Marti using frequency 1040 kHz. They fear Cuban retaliation that will ruin WHO and destroy an agricultural marketing and production informational tool that thousands of farm families have relied on for decades. They recommend that Radio Marti use VOA's Radio Marathon transmitter in Florida, which they indicate is an "underutilized 50 kw facility on 1180 kHz, which is received in Cuba."
Is that a feasible way to alleviate WHO's concerns?

Answer: WHO fears Cuban retaliation against Radio Marti. If Cuba jams reception of Radio Marti in Cuba, WHO would probably be affected very little, if at all. There is a threat to WHO with or without Radio Marti. Tying this threat to Radio Marti is inaccurate and misleading. Cuba, in August 1981, stated its interest in broadcasting on 1040 kHz, using a 500 KW transmitter, before the establishment of Radio Marti was announced. The frequency of 1040 kHz was identified formally by the FCC on October 2 and announced by the USG November 8. The possibility of Cuban interference on this frequency in the U.S. exists regardless of Radio Marti. The Western Hemisphere AM Broadcasting Conference late last year accepted U.S. use of 1040 kHz as part of the regional broadcasting plan and rejected Cuba's application.

Compensation for U.S. Radio Stations

Question: The bill reported by the House Foreign Affairs Committee amends the Board for International Broadcasting Act of 1973 to authorize the Board to compensate United States radio and television broadcasting stations for expenses incurred in mitigating Cuban government interference. Are those payments intended to be paid from the appropriations authorized by the 1973 Act or from those authorized by the Radio Broadcasting to Cuba Act?

Answer: The only provision for compensation payments is related to Section 4 of the amended RBC Act approved by the House Foreign Affairs Committee. According to the Committee Report, Section 4 "authorizes $10 million for FY 1982 and $7.7 million for FY 1983...to cover the operations of Radio Marti and any compensation authorized by BIB under Section 6..." These amounts represent budget proposals for Radio Marti operations and would not cover compensation payments.

Question: Does the Administration support the compensation payments to U. S. broadcasters?

Answer: We were pleased with the recent favorable vote by the House Foreign Affairs Committee on the bill to authorize support for radio broadcasting to Cuba (H.R. 5427). But the Administration thinks that the provision under Section 6 (a) authorizing the Board for International Broadcasting to compensate U.S. broadcasters for expenses incurred in mitigating the effects of Cuban radio interference should be held in abeyance pending further study.

While the Administration is acutely aware of the problem of Cuban interference and the need to deal effectively with it, we believe that any plan to compensate U. S. broadcasters should be the result of careful analysis of the problem and its impact in view of the technical complexity and question of precedent involved. Accordingly, we welcome the establishment of a task force to deal with the interference problem, as provided for in Section 6 (a) of the bill, and see it as the logical body to address the question of compensation as well.

In order not to delay putting Radio Marti on the air once the bill is passed, it is the Administration's strong preference that the provision authorizing compensation payments not be included in this bill, which in any case does not provide adequate funds for that purpose. The compensation question should be postponed until the task force authorized by the bill makes its recommendations. Compensation could then be considered in separate legislation at a later time.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will meet Thursday, May 6, 9:30 a.m., when we will consider the request of the Supreme Court; International Trade Commission; Federal Maritime Commission; and the Marine Mammal Commission.

[Whereupon, at 11:20 a.m., Tuesday, May 4, the subcommittee was recessed, to reconvene at 9:30 a.m., Thursday, May 6.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, MAY 6, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

STATEMENT OF LEWIS F. POWELL, ASSOCIATE JUSTICE

ACCOMPANIED BY:
- SANDRA D. O'CONNOR, ASSOCIATE JUSTICE
- MARK W. CANNON, ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE
- ALFRED WONG, MARSHAL
- DINA ZUCCONI, DEPUTY MARSHAL
- JAMES R. ROBBINS, PERSONNEL AND ORGANIZATIONAL DEVELOPMENT OFFICER
- JAMES R. DONOVAN, DIRECTOR OF DATA SYSTEMS

BUDGET REQUEST

Senator **WEICKER**. Our first request is that of the Supreme Court of the United States. The total request for the Supreme Court for fiscal year 1983 is $14,939,000, an increase of $1,618,000 over the 1983 base.

There are two appropriations for the Supreme Court, the first of which is salaries and expenses. The request for salaries and expenses is $12,922,000, an increase of $1,287,000 over the 1983 base, and provides for 320 permanent positions, an increase of 4 positions.

Appearing on behalf of this request are Justice Powell and Justice O'Connor of the Supreme Court.

Justice Powell, we will be pleased to hear your statement with regard to this request.

Justice **POWELL**. Mr. Chairman, I will be happy to read it, it has been on file, and if you would prefer, we could move onto the questions.

Senator WEICKER. You go right ahead and summarize or read your statement, whatever you care to do.

Justice POWELL. I will read what in effect is a summary of the statement that was filed.

Senator WEICKER. Very well.

GENERAL STATEMENT

Justice POWELL. You stated the basic statistics. What I will undertake to do is indicate why we request the increase for 1983.

For the current fiscal year, that is 1982, there was a small decrease in our budget request, the request we made in this room last year, the one we now recognize was inadequate. The increase we are asking for today results in part from conservative expenditures and favorable circumstances in 1980 and 1981, with the result that we returned surplus funds in each of those years.

Our 1982 request mistakenly assumed a continuation of favorable circumstances that had contributed to the surpluses. But we were not so fortunate in the current fiscal year. Indeed, I am told that we have a very tight situation under our 1982 budget.

The surpluses in the former years arose primarily from several favorable factors, in addition to a close watch on expenditures:

First, we had some 28 to 36 vacant positions already authorized that gave us a substantial cushion. In our 1982 request, we surrendered nine of the authorized but then unfilled positions.

Another favorable factor was in estimating cost of printing and binding U.S. reports. That process involved, in effect, long range guessing, because the reports sometimes take 3 to 4 years in the printing process. But we were able, last year for example, to return $200,000 of the budgeted amount, in other words, we had perhaps overestimated.

Another favorable factor that affected our budget in the last couple of years is the fact that we did not expend all that had been asked for on the transition to computerized printing system. All of that is going to catch up with us now. None of those favorable factors exists presently.

So the combination of those plus very conservative spending by the Court caused perhaps, in the last couple of years, budgets that were ultraconservative; or in other words, we have some catching up to do this year in spite of all those factors. We think that the request which you noted at the outset was a responsible and reasonable one.

We would be happy to respond to any questions that the chairman has, and members of the staff are here to provide all the details.

Senator WEICKER. As you know, the Congress is considering maintaining 1983 spending at the same levels as those appropriated in 1982. The Court requested a reduction in its budget last year. What effect would it have on the Court to continue at the 1982 level for another year?

Justice POWELL. We would be in a great deal of trouble primarily for the reasons I indicated. The favorable factors that enabled us to request a very conservative budget and send back funds simply no longer exists. We are operating this year, as I indicated before, on the budget request we made a year ago. As events have unfolded, the request was too tight. We are not allowed to fill any positions. Although the 11-percent increase we request may seem large percentagewise, actually it is small in dollars when viewed in light of the functions and responsibilities of the U.S. Supreme Court. As my statement previously filed indicates, the Court's budget has increased only 9.1 percent over the last 2 years, an average of about 4.5 percent per year.

PERSONNEL

Senator WEICKER. Last year in the hearing on the 1982 budget, this committee noted your request to eliminate nine secretarial positions. It was our concern then, as in previous years, that your remaining resources would be inadequate to meet the growing workload confronting the Court. Now, I see that for 1983 you have requested 4 new positions and funding to fill existing vacancies—and I might add, funding to fill existing vacancies, the net effect being 10 more people, including secretaries, and that is a considerable turnaround from your testimony last year.

Justice POWELL. Well, I am not sure that I would view it quite that way. The vacancies that you have in mind will be filled—they were positions previously authorized. One of the factors that has contributed a good deal to the situation we are discussing is that for a period we had a fairly high rate of retirements or vacancies created by personnel simply leaving. Under the current conditions, people are not retiring and not leaving, so that we no longer have a cushion from authorized positions unfilled. We are adding or requesting only four new full-time positions over and above those previously authorized.

One of them is in the clerk's office, one in the library, and one in the reporter's office, and then also a full-time laborer and a part-time housekeeper.

Senator WEICKER. How many existing vacancies are there right now?

Ms. ZUCCONI. Seventeen.

Justice POWELL. Total authorized staff would only be increased from 316 to 320.

Senator WEICKER. I understand, but obviously my question is if you have those vacancies that exist at the present time, or rather authorized positions that are unfilled, then why the request for more authorized personnel.

Claudia tells me that you have 17 vacancies, only 2 are funded, is that correct?

Ms. INGRAM. Your lapse rate is 15 currently?

Ms. ZUCCONI. That is correct. We have 17 position vacancies at the present time only because we have a freeze on positions; some of these positions would be filled but we have to freeze our positions because of the lack of funds.

Senator WEICKER. So I gather the priority then would be in terms of getting the funding for the existing positions?

Dr. CANNON. That is correct.

Senator WEICKER. If you had to choose between the two, that would be your priority?

Justice POWELL. Yes; but we hope we won't have to choose, Mr. Chairman.

PRINTING AND REPRODUCTION

Senator WEICKER. You have requested an increase of $187,000 for printing and reproduction costs related in part to the computerization of the Court's printing functions.

After more than a year's experience with the automated printing process, are you satisfied that it meets your needs in an economical and cost-effective manner? And when I say $187,000, it represents almost a 20-percent increase in the cost.

Justice POWELL. We did not commence the computerized printing until this term, that was in October 1981, and I think the other Justices would agree with me, that from our viewpoint the Atex printing has been very successful.

Justice O'CONNOR. Yes, very much so.

Justice POWELL. It has expedited the entire process from the time a Justice prepares an opinion until it is printed and circulated to other Justices. Whatever we put into word processing machines in our chambers is stored in the computer, and then on demand is printed rather quickly in our computer room downstairs. We also hope over the years that this new process will reduce the cost of the ultimate printing of the U.S. report, and it will certainly expedite the printing time which is now 3 or 4 years.

So I think the short answer to your question, Mr. Chairman, is that we are pleased with the computerized printing and have been pleased also with the word processing equipment. I would not like to predict what the ultimate cost would be, I think so far there is no excessive cost—I have said this before, I believe computerization is not inexpensive, but it is a necessity in our age.

Senator WEICKER. I have no further questions, and the request will be taken under consideration.

I think I foresee the main difficulties in the personnel problem, and we will try to see what we can do with that.

PREPARED STATEMENT

We will insert your prepared statement in the record.

Justice POWELL. Thank you very much.

Justice O'CONNOR. Thank you, Senator.

[The statement follows:]

STATEMENT OF LEWIS F. POWELL, JR.

Mr. Chairman and members of the subcommittee, I am happy to present Justice O'Connor, who has been requested by the Chief Justice to join me in presenting the Court's budget request.

The officers of the Court who prepare the budget and are familiar with its details are present, Dr. Cannon, Administrative Assistant to the Chief Justice; Mr. Wong, Marshal of the Court; Miss Zucconi, Deputy Marshal; Mr. Robbins, Director of Personnel; and Mr. Donovan, Director of Data Systems.

Our total budget estimate for fiscal year 1983 is $14,939,000. This is an increase of $1,618,000 over the budget authority for 1982. We are requesting a total of $12,922,000 for Salaries and Expenses of the Court and $2,017,000 for Care of the Building and Grounds. My statement will be limited to the operation of the Court.

The estimate for salaries and expenses of the Court is an increase of $1,287,000 over the budget authority for 1982. This is the first increase of any significance in several years. For the current 1982 year, our budget actually decreased.

Our ultra conservative budgets of recent years and the higher inflation rate have contributed to the need for a larger budget request for fiscal year 1983. Even with that proposed today, the Court's budget has increased only 9.1% over the last two years, for an average increase of about 4.5% per year. This compares with the average national inflation rate of 10.7% for the two year period.

The inflation rates assumed for fiscal years 1981 and 1982 were 3.4% and 6.8% respectively for miscellaneous expenses other than personnel. These rates were unduly optimistic.

The adjustments to base include increases totaling $909,000. The principal increases were in costs of the Federal Telecommunications Systems charges, and charges for services, supplies and equipment. In addition to these adjustments due to increased costs, the sum of $153,000 is required for the cost of within-grade salary advancements as provided by law. The amount of $146,000 also will be needed to fill 6 authorized positions. We assumed fewer unfilled positions, and have reduced our estimated lapse rate from 15 to 9 positions.

The increase for fiscal year 1983 over 1982 as adjusted includes $378,000 for program changes. The detailed justifications for these items appear on pages 1.9 through 1.13 of our budget submission.

The program changes include four additional full-time permanent positions and one part-time position, for a total cost of $99,000. The four positions would increase the total full-time permanent positions for the Court from 316 to 320. A position of Junior Docket Clerk is requested for the Clerk's Office to assist in examining and docketing filings that are increasing. An additional Assistant Secretary in the Library has been needed for some time. An Assistant Secretary also is needed in the Office of the Reporter of Decisions.

The fourth position is required for the Labor Force to assist in the heavy cleaning of the Court building. Our public visitation by tourist has steadily increased in recent years. The part-time housekeeper position would provide the additional help needed for the general cleaning of all Court offices.

Other program changes that include salary increases are for the following items: promotions, merit increases, incentive awards and temporary employment. The sum of $93,000 is requested for promotions and merit increases. An additional amount of $75,000 is requested for the purpose of hiring additional temporary employees.

In fiscal year 1981 the Court completed the installation of the new Word Processing and Publications System. The System, that we simply refer to as the "Atex" system, was purchased at the end of fiscal year 1981. Last October, with the beginning of the current Term, we initiated the electronic printing of the opinions on the new system, discontinuing that phase of the linotype printing operation.

The print shop, operated by the Government Printing Office (GPO), is therefore now completing the work of the previous terms by producing the Preliminary Prints and Bound Volumes.

The excellent print shop personnel will return to GPO permanently when opinions from prior terms have been typeset and turned over to the GPO for publication.

Budget funds related to the new system, for fiscal year 1983 and beyond, will be based upon the cost of system maintenance, supplies and anticipated expansion as greater use is made of the system.

An item which does not appear in the annual budget relates to collections made by the Court. For the past 17 years the Clerk's Office has operated out of appropriated funds as do all federal courts, and is no longer authorized to operate on a fee basis. However, all fees collected by the Clerk are turned over to the Treasury. In fiscal year 1981, the sum of $997,672 was deposited in the General Fund of the Treasury. This is not used to reduce the Court's expense of operating.

We have been operating under strict spending controls during the current fiscal year to avoid a year end deficit. This situation was caused largely by our underestimating the inflation rate, the decrease in the number of vacant positions, and by our not requesting funds to provide for within-grade increases. We have accounted for these important items in planning the 1983 budget.

The surpluses in prior years had been occasioned primarily by three factors: (1) the presence in the budget of some 28 to 36 vacant positions, most of which remained unfilled; (2) continuing difficulty in estimating costs of printing and binding of the U.S. Reports; and (3) difficulty in estimating costs of the transition to computerized printing.

The unused funds, returned to the Treasurer, therefore resulted primarily from a combination of estimating difficulty and conservative spending.

* * * * *

The Court's expenses are dependent, in part, on our caseload. We cannot control the number or complexity of cases filed in our Court. Indeed, the "overload" of the federal court system at all three levels is approaching a critical stage.

In the past 20 years the number of cases filed with this Court had increased from 1,957 to 4,174 last Term. The complexity of the cases also seems to increase each year. On the basis of filings so far, we anticipate a further increase this Term of some 200 to 300 cases.

We already have granted more cases for argument than, I believe, at any prior comparable point in a term of the Court: A total of 153 grants as of April 23, compared with 135 granted as of this time last Term. The increasing caseload inevitably increases the cost of conducting the Court's business.

* * * * *

In short, it is now evident that for several fiscal years, the Court's actual expenditures were less than anticipated - resulting in surpluses. That period is now behind us. We hope the budget presented today - though a lean one - is realistic.

The details of what we request are set forth in the budget estimates for fiscal year 1983 that have been made available to the Committee and its staff. This document identifies in some detail the increases.

Justice O'Connor and I will do the best we can - with assistance from Court officers present (who know more about the details than we do) - to respond to questions.

CARE OF BUILDING AND GROUNDS

STATEMENT OF GEORGE M. WHITE, ARCHITECT OF THE CAPITOL

ACCOMPANIED BY:

WILLIAM L. ENSIGN, ASSISTANT ARCHITECT OF THE CAPITOL
WILLIAM F. RAINES, JR., ADMINISTRATIVE ASSISTANT
J. RAYMOND CARROLL, DIRECTOR OF ENGINEERING
EMANUELE CRUPI, BUDGET OFFICER

BUDGET REQUEST

Senator WEICKER. Our next request is that of the U.S. Supreme Court, care of the building and grounds. The amount requested is $2,017,000, an increase of $235,000 over the 1983 base and provides for 33 permanent positions for the structural and mechanical care of the U.S. Supreme Court Building and grounds.

PREPARED STATEMENT

We are pleased to have your statement for the record. Why don't you synopsize your statement for the record and you can tell us what is needed.

[The statement follows:]

STATEMENT OF GEORGE M. WHITE

I am pleased to appear before the committee to present the fiscal year 1983 appropriation request for the care and maintenance of the Supreme Court Building and grounds.

I thought it might be appropriate, if it is agreeable, Mr. Chairman, to present a brief summary of the request and then answer any questions that you may have concerning the detail.

As you know, the Architect of the Capitol, by authority of the act of May 7, 1934, is responsible for the structural and mechanical care of the U.S. Supreme Court Building and grounds. We are not charged with responsibility for custodial care, which is under the jurisdiction of the marshal of the Supreme Court and is provided for in another appropriation.

In our prepared justifications for 1983, we have requested a total appropriation of $2,017,000. This represents an increase of $331,000 over the total of $1,686,000 for 1982, which includes a pending pay supplemental request in the amount of $32,000.

Increases requested are: $18,000 for annualization of Civilian Pay Act and wage-rate pay increases effected in October 1981, related benefits, premium pay, and within-grade salary advancements authorized by law; $15,000 to offset increased costs due to inflation for goods and services procured for annual recurring maintenance items such as painting, supplies and materials, general repairs and air-conditioning maintenance; $28,000 to offset additional electrical energy consumption and $10,000 to replace old equipment and $25,000 for miscellaneous improvements.

Nonrecurring items requested total $235,000 and very briefly include: improving air system for the west portion of the building ($60,000), repairing and/or replacing all venetian blinds and related hardware ($50,000), expanding area for central computer processing needs ($75,000), and modifying four water cooled chiller units ($50,000).

Mr. Chairman, that concludes the summary and I shall be pleased to respond to questions.

STATEMENT OF GEORGE M. WHITE

Mr. WHITE. The Architect of the Capitol, by authority of the act of May 7, 1934, is responsible for the structural and mechanical care of the U.S. Supreme Court Building and grounds. We are not charged with responsibility for custodial care, which is under the jurisdiction of the marshal of the Supreme Court and is provided for in another appropriation.

The basic increase, Mr. Chairman, is confined to the nonrecurring items; a portion of the increase is for annualization of Civilian Pay Act and wage-rate pay increases which are required by law; another portion is to provide $15,000, for example, to offset increased costs due to inflation for goods and services procured for annual recurring maintenance items such as painting, supplies and materials, general repairs and air-conditioning maintenance; $28,000 to offset additional electrical energy consumption, and $10,000 to replace old equipment and $25,000 for miscellaneous improvements, and other items of that nature.

Nonrecurring items requested total $235,000 and very briefly include: improving the air system for the west portion of the building, $60,000; repairing and/or replacing all venetian blinds and related hardware, $50,000; expanding the area for central computer processing needs, $75,000; and modifying four water cooled chiller units, $50,000. This latter item will, in effect, result in connection to our central cooling system which will again be an energy savings.

The expansion of the central computer processing needs are a requirement of the Court for which we need to provide additional cooling, raised floor, and the sorts of physical conditions necessary to respond to that need.

And that is the basic request, Mr. Chairman.

LAND ACQUISITION

Senator WEICKER. Last year, the Congress provided a supplemental appropriation of $645,000 for the purchase of property to be used as a parking lot for the Supreme Court. It was the express intent of the Congress that the amount appropriated not be an installment on the purchase price of the property. Further, if this amount was insufficient, the Architect was to resubmit the entire proposal to Congress.

Have you purchased this piece of property, and if so, what was the final purchase price negotiated for the property?

Mr. WHITE. Yes; the property was purchased. The amount appropriated was $645,000, as you mentioned. The purchase price was $595,000. The apportionment of real estate taxes associated with the transfer was $3,900, in round numbers; the transfer of reimbursement to the District of Columbia came to $3,950; survey fees amounted to $1,000; and with settlement and title fees, the total came to $606,784; there is a balance remaining in that appropriation of approximately $38,000. We will probably expend some of that for modifications to the parking lot itself.

Senator WEICKER. I congratulate you on your successful venture.

Mr. WHITE. Thank you, Mr. Chairman.

Senator WEICKER. Thank you very much; I have nothing further.

INTERNATIONAL TRADE COMMISSION

STATEMENT OF BILL ALBERGER, CHAIRMAN

ACCOMPANIED BY:
MICHAEL CALHOUN, VICE CHAIRMAN
LORIN L. GOODRICH, DIRECTOR OF ADMINISTRATION
RICHARD D. ARNOLD, DIRECTOR, OFFICE OF FINANCE AND BUDGET

BUDGET REQUEST

Senator WEICKER. Our next request is that of the International Trade Commission. The amount requested is $19,737,000, an increase of $1,934,000 over the fiscal year 1982 continuing resolution and pending pay supplemental, and provides for 438 authorized positions, unchanged from the prior year.

Appearing on behalf of this request is Chairman Bill Alberger. Why don't you introduce those accompanying you, and we will be delighted to hear your statement, but you might want to synopsize it, since your full statement will be placed in the record.

Mr. ALBERGER. Thank you, I will be pleased to do so.

I am accompanied by Michael Calhoun, Vice Chairman; Lorin L. Goodrich, Director of Administration; and Richard D. Arnold, Director, Office of Finance and Budget.

When we put our budget request together last summer, we assumed since our full request for fiscal year 1982 was approved by the House Ways and Means Committee, the full House and by the Senate Finance Committee, that we would receive near that amount. Unfortunately, we have been forced to operate on a continuing appropriation at essentially the fiscal year 1981 level of funding. We prepared a budget that concentrated on improved utilization of resources and determined not to request growth. However, we have had to curtail hiring, travel, and training in order to operate this year at last year's level, even in the face of 92 unplanned for cases that were filed in January of this year on imported steel.

STEEL CASES

These steel cases involved products approximating 70 percent of overall domestic steel production, and an even larger percentage of steel imports from the European community. The Commission voted to continue 38 of these investigations involving 89 percent of the volume of imports under consideration, and terminated 54 cases, involving only 11 percent of the volume. We completed those 92 cases within the 45 day time limit imposed by the Trade Agreements Act of 1979, but not without a herculean effort by our staff. Typical of the problem of learning we had to operate in fiscal year 1982 on a continuing resolution at 1981 levels was the situation with our steel experts. We had to temporarily freeze employment shortly after losing two steel experts to the Department of Commerce and one to retirement in order to hold down expenditures. We shifted resources and tapped those individuals with the capability to blend with our remaining steel experts to form a solid investigative team for these investigations. The staff who produced the steel reports really deserve special recognition for these efforts. It is only through such dedication that we are able to successfully operate and make all our deadlines.

CASELOAD

I talked about an expanded caseload last year, and expanding it was. But in fiscal year 1982 it has reached the point where we now expect double the load from fiscal year 1981, and we firmly believe in fiscal year 1983 it will equal fiscal year 1982. There seems to be a slight lag in a recession before the flood of new cases arrives. We are now in the flood.

During fiscal year 1981 the Commission completed 98 investigations and worked on 48 more for a total of 146. During this fiscal year we expect the total workload to nearly double to a level of 274 and for that level to remain during fiscal year 1983. As of April 30, in fiscal year 1982, we have completed 159 cases. With the level of statutory investigations up sharply, we are also experiencing a rapid increase in requested section 332 investigations, with several more apparently soon to arrive from the President.

In addition to the conversion of the TSUS to the harmonized system, a massive 2-year project, we have recently completed a 332 on softwood lumber, and are working on 332's concerning potatoes, straw headware, reports on the U.S. auto industry, printed circuit boards, and performance requirements and understand we will soon have requests on several sectoral studies related to U.S.-Mexico negotiations and export credit subsidies.

Our responsibilities are not contracting like other agencies that are receiving budget cuts. We continue to receive more requests for assistance, in large part a recognition of our ability to perform needed research and investigation and produce factual and unbiased work product. I welcome that, and have openly sought such recognition in order that we avoid excessive duplication of talents and functions in the international trade operations of our Government. We should attempt to conserve precious resources, and that certainly includes tax dollars. However, if we are to continue to perform with the level of expertise this committee expects us to have, we simply must be fully funded at our budget level. We will survive this year on the continuing resolution providing our pay supplemental makes it through, but the services would probably decline in fiscal year 1983 if we have to make it on the fiscal year 1981 level again.

LEANER BUDGETS

Let me close with a personal note. I have been a member of the Commission for 4½ years, and am now the senior member in terms of service. This is my last appearance before you as Chairman, presenting the budget of this Commission. I have seen five budgets developed and presented and believe each has been leaner than the last. Yet, I firmly believe our work product has steadily improved. Our responsibilities expanded during the MTN and with the passage of the Trade Agreements Act of 1979. Our authorized staff level in this budget is only 12 more than in fiscal year 1976, and is the same as the approved level for fiscal year 1980, 1981, and 1982. We have done more with less each year, but I caution you that such apparent contradictions cannot continue much longer. We are getting stretched too thin. We cannot make it at fiscal year 1981 levels through fiscal year 1983 without a very apparent decline in services and quality. I believe our work in making well-considered determinations in major trade cases solely on the merits has been a valuable service to the Congress and the Nation. The existence of this agency is essential to our continuing promotion of transparency and rule of law decisionmaking in trade disputes. This budget is lean, and we need every penny of it if we are to maintain the level of quality and service you demand and have every right to expect.

Thank you.

Senator WEICKER. I think you have addressed that same question I asked the Supreme Court as to freezing the level for another year.

Mr. ALBERGER. I think if I could expand on that, as I understood what was in the newspaper this morning, it sounds like a freeze at the 1982 level perhaps for 3 years. I think in terms of actual effect on the Commission, that translates, because we have already cut where we can in the nonpersonnel services, into a staff decline of 20 to 25 people per year, and that is a sizable cut and may result in a major decline in services and quality from the type of work you expect from this Commission, and that concerns me greatly.

PREPARED STATEMENT

Senator WEICKER. Thank you. Your statement will be placed in the record.

[The statement follows:]

STATEMENT OF BILL ALBERGER

Mr. Chairman and members of the Subcommittee, I am pleased to meet with you to discuss the Commission's fiscal year 1983 budget request. I am accompanied today by our Vice Chairman, Michael Calhoun; Lorin Goodrich, our Director of Administration; and Richard Arnold, our Director of Finance and Budget. Other staff members are also present.

In developing the budget request for fiscal year 1983 the Commission examined its needs with special care. Despite the substantial growth in demands on the Commission we have again made a deliberate effort to concentrate on improvements in utilization of resources and not request any growth. The Commission's fiscal year 1983 budget request of $19,737,000 represents an increase of $934,000 over the fiscal year 1982 revised request of $18,803,000, including the supplemental for pay increases. This is a 5 percent increase, of which 96 percent results from built-in increases in employee compensation, inflation and General Services Administration space rental increases. The balance of the increases requested do not represent growth in either program or operating levels but are attempts to institute administrative improvements to maintain and/or improve Commission operations within existing resources. These include the conversion of the current manual TSUSA publication system to an automated system, the implementation of an in-house accounting system and acquiring additional word processing equipment. These improvements will permit the Commission to meet increasing demands without staff increases or commensurate cost increases in other areas. Automation of the publication of the TSUSA will enable the Commission to better serve the international trade community through a reduction in the size of the publication with an accompanying cost reduction, faster publication of Congressional or Presidential changes to the tariff schedules, and electronic access to the TSUS. In addition, automation should reduce the expenditure of several thousand hours of proofreading each year. Our own computer (which was approved by our appropriation committes for purchase from fiscal year 1981 funds and due to be installed later this year) will greatly enhance many Commission functions and provide better control of sensitive data, in addition to expanding capabilities in data-gathering, processing, and information sharing. Implementation of our own financial management information system will provide management better control over agency resources and should lead to future cost savings. These improvements will be made without additional costs to the Commission, once the systems are initially installed.

A major continuing activity is our work on the Harmonized System, both in the continuing negotiations in Brussels and in converting the TSUSA into the nomenclature structure of the Harmonized System. We are under a Presidentially imposed June 1983 deadline to complete all conversion activities. This includes publishing the 97 chapters of the Harmonized System, holding public hearings on them, and preparing a report to the President on the probable economic effect of the conversion. We have published 24 of the 97 chapters and held the first public hearings March 29th and 30th, 1982. Additional chapters are scheduled to be published in late 1982 and early 1983 with the Commission holding public hearings after the chapters are released.

The Commission is heavily involved in preparation for the General Agreement on Tariffs and Trade (GATT) Ministerial meeting. The U.S. goal will be to obtain adoption of a GATT work program for the 1980's which will include a meaningful implementation of all of the MTN codes, completion of the unfinished negotiations on safeguards and commercial counterfeiting, negotiation of extended coverage of the Government Procurement Code, further negotiations regarding the Civil Aircraft Code, a review of the Standards Code, and constructive work on trade in services and high technology goods, trade-related investment issues, agriculture trade, and the participation of developing countries in the trading system. The Commission must be prepared to provide full support to the U.S. Trade Representative in these activities.

The demands for Commission services are increasing, and we must be able to continue to provide timely and professional assistance when called upon. The Commission is currently in the midst of the largest investigative caseload in its history. Page 7 of our budget justification summarizes the workload by investigation and shows the significant rise in workload. During FY 1981 the Commission completed 98 investigations and worked on 48 more for a total caseload of 146. During this fiscal year we expect the total workload to nearly double to a level of 274 and for that level to remain during FY 1983. As of April 23rd, in FY 1982, we have completed 158 cases. In the antidumping and countervailing duty area, in addition to the normal workload and the remaining requirement to complete the 30 transition cases on which we have been waiting for data from the Commerce Department, the Commission received 92 cases on imported steel in January of this year. These cases, filed by seven U.S. steel companies, involve approximately 70 percent of domestic steel production, and an even greater percentage of steel imports from the European Community. As you know, the Commission voted to continue 38 investigations involving 89 percent of the volume of steel imports under investigation and terminated 54 cases, involving only eleven percent of the volume of imports. The Commission will be required to conduct final investigations on each of the continued cases when they are returned by the Department of Commerce later this year.

We have also provided for increased emphasis on unfair import practice investigations, as filings have rapidly increased during the current fiscal year. This appears to be due to the fact that ITC procedures are more expeditious than the courts, plus often result in a more effective remedy. We expect this increased caseload will continue not only in patent cases, but also in trademarks and copyrights.

The Commission has recently completed Section 332 investigations or special studies for the Congress and the President concerning jewelry, import trends in TSUS items 806.30 and 807.00, petrochemical industries of North America, trade patterns of North and Central American countries, Generalized System of Preferences for the Peoples Republic of China and conditions relating to the importation of Canadian softwood lumber. We are currently conducting several additional investigations including two requested by the Congress: international trade in printed circuit boards; and monthly reports on the U.S. auto industry; three requested by the President: status of fall-harvested Potatoes; Probable Economic Effect of the Continued Designation of Certain headwear of Straw for Duty Free Treatment; and performance requirements for U.S. firms establishing operations in other countries. We anticipate several additional Presidential requests this fiscal year on such items as automobiles and automobile parts, petrochemicals, integrated computer circuits, and export credit subsidies. In addition, the Commission on its own motion completed a study on Recent Trends in U.S. Countertrade, and is currently working on studies which include: Emerging Textile Exporting

Nations, the Relation of Exports in U.S. Service Industries to Merchandise Exports, and the Effects on U.S. Firms of Expanding Foreign Petrochemical Industries. These latter investigations were initiated following discussions with authorizing Committee staff and USTR staff, where interest in the subjects involved were indicated.

The Commission is required by the Trade Act of 1974 to provide Congress with an annual report on the operations of the trade agreements program and a quarterly report on U.S. trade with nonmarket economy countries. To support these reports and other expanded responsibilities the Commission has developed an active trade monitoring system. This system, in addition to identifying probable trade issues by automatically detecting unusual trade movement, has the flexibility to meet new trade monitoring requirements as they develop. We are currently monitoring U.S. trade in motor vehicle parts and products under the Civil Aircraft Code, and are providing quarterly reports on significant shifts in U.S. trade. During fiscal year 1981 we provided a special report on the U.S. trade balance with Japan for the United States Trade Representative.

The Commission must continue to have the flexibility to shift resources between programs in response to fluctuations in workload demands, rather than increasing or decreasing staff as projects are started or completed. Those 92 steel cases were filed in January, all at one time. We actually had 2 vacancies on our steel staff at that time, but shifted resources to handle the incredible workload. The staff who produced the reports in those investigations really deserve special recognition for their efforts. It is only through such dedication that we are able to successfully operate and make all our deadlines. Sometimes the government employee seems to be the scapegoat for all the economic problems in the country--I believe it remains the most noble service, and wish there were ways to more adequately reward our fine staff.

The Commission is operating currently under the Continuing Resolution for Fiscal Year 1982, at $17,200,000, which is below the fiscal year 1981 funding level of $17,215,000. To meet our workload demands we have had to take various economy measures to assure that level is not exceeded. We have, of course, limited our staff to a level below that authorized, but we also severely cut back on nonpayroll costs so that we could temporarily maintain a sufficient level of staffing. This was done in order to maintain the staff at a level necessary for current and future workload requirements. We had hoped that when our appropriation bill was considered on its merits, our funds would be restored to the requested level, adjusted for savings already taken. In this way we had hoped to avoid mortgaging the future through a temporary, but harmful, staff reduction. Should a reduced funding level continue throughout FY 1983, staff reductions will be required below current levels and the Commission may encounter serious problems meeting all our deadlines in investigations and other mandated work, and the overall quality of our work product may suffer.

Let me close with a personal note. I have been a member of the Commission for four and a half years, and am now the senior member in terms of service. I have seen five budgets developed and presented, and believe each has been leaner than the last. Yet, I firmly believe our work product has steadily improved. Our responsibilities expanded during the MTN and with the passage of the Trade Agreements Act of 1979. Our authorized staff level in this budget is only 12 more than in FY 1976 and is the same as the approved level for FY 1980, FY 1981 and FY 1982. We have done more with less each year, but I caution you that such apparent contradictions cannot continue much longer. We are getting stretched too thin. We cannot make it at FY 1981 levels through FY 1983 without a very apparent decline in services and quality. This budget is lean, and we need every penny of it if we are to maintain the level of quality and service you demand and have every right to expect.

I thank you for your assistance.

FEDERAL MARITIME COMMISSION

STATEMENT OF ALAN GREEN, JR., CHAIRMAN

ACCOMPANIED BY:

JAMES K. COOPER, MANAGING DIRECTOR

FREDERICK F. TRUTKOFF, DIRECTOR, OFFICE OF BUDGET AND FINANCIAL MANAGEMENT

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Federal Maritime Commission. The amount requested is $10,428,000, a reduction of 16 permanent positions and $1,070,000 from the 1983 base. This amount provides for 278 total work-years of employment which is 23 work-years less than fiscal year 1982.

Appearing on behalf of this request is Alan Green, Jr., Chairman, and why don't you introduce those who accompany you, and we will receive your statement into the record in its entirety.

GENERAL STATEMENT

Mr. GREEN. Thank you, Mr. Chairman

Good morning. I welcome this opportunity to appear before you to discuss the budget estimates for the Federal Maritime Commission.

Accompanying me today are Mr. James K. Cooper, the Commission's Managing Director, and Mr. Frederick F. Trutkoff, Director of the Office of Budget and Financial Management.

Mr. Chairman, at the outset I would like to briefly outline for the committee the major functions and statutory responsibilities of the Federal Maritime Commission. As you know, the regulation of the liner shipping industry in the foreign commerce has never been as comprehensive as the regulatory schemes governing the surface and air transportation industries. The Shipping Act does not authorize the Federal Maritime Commission to control entry or the levels of rates or service in the U.S. foreign commerce. Rates can be reduced upon filing with the Commission and carriers are free to employ any type of vessel which they choose. The judicial, legislative, and enforcement functions of the Commission are summarized in the prepared statement and submitted for the record. It may be helpful, however, for us to present a few statistics so that you may have a quantitative explanation of our regulatory activities.

During fiscal year 1981, the Commission issued 393 final decisions. Of these, 65 were formal proceedings, 88 involved special docket applications, 222 were informal dockets involving small claims of shippers against ocean carriers, and 18 related to rulemaking proceedings.

Pursuant to the special docket procedures for waiver or refunds of overcharges, reparations of approximately $2 million were paid directly to the shippers by ocean carriers.

The Commission also settled 64 cases totaling $1 million in civil monetary penalties, primarily for illegal rebating in the U.S. foreign commerce.

During fiscal year 1981, we collected over $2.8 million in fees and penalties. This revenue represents 24 percent of the Commission's 1981 operating expenses which was deposited directly with the Treasury and is not reflected in our budget, but should be considered in terms of the Commission's cost effectiveness.

The Commission through its consumer affairs program assisted shippers in recovering more than $120,000 from persons subject to the act.

In addition, we are reviewing all of our current programs for the purpose of consolidating, paring down, and reorganizing programs, wherever possible, in order to develop the most effective and efficient operation possible.

We have made active use of our exemption authority pursuant to section 35 of the Shipping Act, to reduce the paperwork burden on those we regulate.

We are currently in the process of conducting a review of our fee schedules to determine whether they are adequate. In connection with this review, I have also directed the staff to examine whether extension of fees to other activities and services is appropriate.

The Commission has already taken the following positive steps to achieve savings during fiscal year 1982: The halting of promotions; elimination of all cash awards; implementation of a hiring freeze; reduction of travel expenses; reduction of FTS telephone expenses; total elimination of consulting services; elimination of outside training; reduction in fiscal services; and, reduction in office supplies.

Before I review the exact budget estimates, allow me to put those figures into perspective. The FMC budget is strictly an operating budget, with 83 percent required for personnel and 12 percent for fixed costs. We administer no grant programs and we have very limited discretionary funds. As we noted above, we returned 24 percent of our budget to the Treasury in fees and penalties.

The budget estimates for fiscal year 1983 in the amount of $10,428,000 and 290 permanent positions represent a reduction of $797,000 and 16 positions from the $11,225,000 and 306 permanent positions approved pursuant to the authority under the continuing resolution for fiscal year 1982. From 1981 to the fiscal year 1983 projections, the Commission will have experienced a 21-percent reduction in authorized positions, from 366 to 290, and a 14-percent reduction in appropriations from $12,100,000 to $10,428,000. In addition, we have been requested to absorb $385,000 of civilian pay raises that went into effect on October 1, 1981, and $206,000 of annual costs associated with lifting of the pay cap.

The Commission has examined all available options, including the furloughing of employees, to achieve the budget reductions approved by OMB for fiscal year 1983 while ensuring the most effective and efficient operations of the Commission. The OMB fiscal year 1983 budget estimate will require the FMC to eliminate from 43 to 50 permanent positions. This represents a reduction of 14 to 16 percent of our 1982 authorized positions. This comes at a time when we are on the verge of obtaining significant new legislation affecting all our programs.

I strongly support the administration's attempt to reduce Federal expenditures in order to achieve a balanced budget. However, I also have a responsibility to apprise the Congress of the effects of the proposed budget estimates on the FMC's operations and its ability to carry out those programs mandated by the Congress. To that end, I have appeared today to provide you with the facts.

This completes my prepared statement and I will be more than happy to respond to any questions, Mr. Chairman.

EFFECT OF REDUCTIONS

Senator WEICKER. What effect will the reductions have on FMC's ability to carry out its responsibilities?

Mr. GREEN. Well, as I indicated sir, in my statement, the budget estimates on page 4 of my abbreviated statement, the budget estimates going down to $10,428,000 and 290 permanent positions is a very large percentage reduction for us.

The budget estimates will require FMC to eliminate from 43 to 50 permanent positions. I know that does not sound like a lot of positions in the Government, but when you are dealing with this small of an agency it represents 14 to 16 percent, and to answer that a little better, I came on board on July 1, 1981, and we had 341 employees. On April 30, 1982 we had 294 employees, which is down 47 employees, or 14 percent.

I am getting down to the bone and we will carry on the best we can, but it would be extremely difficult if we incurred any further reductions.

Senator WEICKER. Would you be better off with the 1982 levels than at the 1983 levels? I don't have the chart in front of me. What did you have in 1982?

Mr. GREEN. With the 1982 level, which includes the continuing resolution in the amount of $11,225,000 and the OMB's approved supplemental of $273,000 for a total of $11,498,000; yes, we would be better off with that. I might add that the OMB approved supplemental for fiscal year 1982 will cover only 50 percent for pay raises and lifting of the pay cap.

Senator WEICKER. All right, thank you very much.

Mr. GREEN. Thank you, Mr. Chairman, very much.

PREPARED STATEMENT

Senator WEICKER. Thank you. We will insert your prepared statement in the record at this point.

[The statement follows:]

STATEMENT OF ALAN GREEN, JR.

Good Morning. Mr. Chairman and Members of the Committee, I welcome this opportunity to appear before you to discuss the budget estimates for the Federal Maritime Commission.

Accompanying me today are Mr. James K. Cooper, the Commission's Managing Director, and Mr. Frederick F. Trutkoff, Director of the Office of Budget and Financial Management.

Mr. Chairman, at the outset I would like to briefly outline for the Committee the major functions and statutory responsibilities of the Federal Maritime Commission. As you know, the regulation of the liner shipping industry in the foreign commerce has never been as comprehensive as the regulatory schemes governing the surface and air transportation industries. The Shipping Act does not authorize the Federal Maritime Commission to control entry or the levels of rates or service in the U.S. foreign commerce. Rates can be reduced upon filing with the Commission and carriers are free to employ any type of vessel which they choose. The judicial, legislative and enforcement functions of the Commission can be briefly summarized as follows:

* We review agreements between persons subject to the Act, which, if found to conform with Shipping Act standards, are approved by the Commission;

* We serve as the central repository of tariffs filed by ocean carriers and conferences;

* We have an active enforcement program to uncover unjustly discriminatory or unfair practices;

* We administer the Controlled Carrier Act of 1978 to protect ocean carriers serving our trades from any predatory rate cutting on the part of foreign government controlled carriers;

* We serve as the forum for adjudicating disputes among carriers, ports, and shippers;

- We license and supervise the activities of ocean freight forwarders;
- We certify the financial responsibility of vessel owners to clean up pollution of our navigable waters resulting from oil spills and toxic discharges; and
- We certify the financial responsibility of the operators of passenger vessels to indemnify passengers for death, injury, or nonperformance.

As a supplement to this description of our programs, it may be helpful to the Committee for us to present a few statistics so that you may have a quantitative explanation of our regulatory activities.

During Fiscal Year 1981, the Commission issued 393 final decisions. Of these, 65 were formal proceedings, 88 involved special docket applications, 222 were informal dockets involving small claims of shippers against ocean carriers, and 18 related to rulemaking proceedings.

Pursuant to the special docket procedures for waiver or refunds of overcharges, reparations of approximately $2 million were paid directly to the shippers by ocean carriers.

The Commission also settled 64 cases totaling $1 million in civil monetary penalties, primarily for illegal rebating in the U.S. foreign commerce.

During Fiscal Year 1981, we collected over $2.8 million in fees and penalties. This revenue represents 24% of the Commission's 1981 operating expenses which was deposited directly with the Treasury and is not reflected in our Budget, but should be considered in terms of the Commission's cost effectiveness.

The Commission through its Consumer Affairs program assisted shippers in recovering more than $120,000 from persons subject to the Act.

In addition, we are reviewing all of our current programs for the purpose of consolidating, paring down and reorganizing programs, wherever possible, in order to develop the most effective and efficient operation possible.

We have made active use of our exemption authority pursuant to section 35 of the Shipping Act, to reduce the paperwork burden on those we regulate.

We are currently in the process of conducting a review of our fee schedules to determine whether they are adequate. In connection with this review, I have also directed the staff to examine whether extension of fees to other activties and services is appropriate.

The Commission has already taken the following positive steps to achieve savings during Fiscal Year 1982:

- The halting of promotions;
- Elimination of all cash awards;
- Implementation of a hiring freeze;
- Reduction of travel expenses;
- Reduction of FTS telephone expenses;
- Total elimination of consulting services;
- Elimination of outside training;
- Reduction in fiscal services; and,
- Reduction in office supplies.

Before I review the exact budget estimates, allow me to put those figures into perspective. The FMC budget is strictly an operating budget, with 83% required for personnel and 12% for fixed costs. We administer no grant programs and we have very limited discretionary funds. As we noted above, we returned 24% of our budget to the Treasury in fees and penalties.

The budget estimates for Fiscal Year 1983 in the amount of $10,428,000 and 290 permanent positions represent a reduction of $797,000 and 16 positions from the $11,225,000 and 306 permanent positions approved pursuant to the authority under the continuing resolution for FY 1982. From 1981 to the FY 1983 projections, the Commission will have experienced a 21% reduction in authorized positions, from 366 to 290, and a 14% reduction in appropriations, from $12,100,000 to $10,428,000. In addition, we have been requested to absorb $385,000 of civilian pay raises that went into effect on October 1, 1981 and $206,000 of annual costs associated with lifting of the pay cap.

The Commission has examined all available options, including the furloughing of employees, to achieve the budget reductions approved by OMB for Fiscal Year 1983 while ensuring the most effective and efficient operations of the Commission. The OMB FY 1983 budget estimate will require the FMC to eliminate from 43 to 50 permanent positions. This represents a reduction of 14 to 16 percent of our 1982 authorized positions. This comes at a time when we are on the verge of obtaining significant new legislation affecting all our programs.

I strongly support the Administration's attempt to reduce Federal expenditures in order to achieve a balanced budget. However, I also have a responsibility to apprise the Congress of the effects of the proposed budget estimates on the FMC's operations and its ability to carry out those programs mandated by the Congress. To that end, I have appeared today to provide you with the facts.

This completes my prepared statement. I will be happy to respond to any questions you may have.

MARINE MAMMAL COMMISSION

STATEMENT OF DONALD K. MacCALLUM, PH. D., COMMISSIONER

ACCOMPANIED BY:
JOHN R. TWISS, JR., EXECUTIVE DIRECTOR
ROBERT J. HOFMAN, PH. D., SCIENTIFIC PROGRAM DIRECTOR
ROBERT EISENBUD, GENERAL COUNSEL

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Marine Mammal Commission. The amount requested is $594,000, a decrease of $78,000 over the 1982 level, and provides for seven permanent positions.

Appearing on behalf of this request is Commissioner Donald K. MacCallum. Why don't you introduce those who are with you, and we will be glad to receive your statement in its entirety in the record.

INTRODUCTION OF ASSOCIATES

Dr. MACCALLUM. Thank you. I am Donald MacCallum, a member of the Marine Mammal Commission. With me today is John R. Twiss, Executive Director of the Commission; Dr. Robert Hofman, Scientific Program Director, and Robert Eisenbud, our General Counsel.

I have a brief statement which I could read rather quickly.

Senator WEICKER. Go right ahead, please.

GENERAL STATEMENT

Dr. MACCALLUM. In our submission to this committee last year, we said that in 1982 the Commission would emphasize: facilitating the work of the International Antarctic Commission and Scientific Committee established under the Antarctic Marine Living Resources Convention; cooperatively resolving marine mammal-fishery conflicts; further improving wildlife management concepts and application in domestic and international policies and practices; returning management of marine mammals to the State of Alaska; resolving problems related to the sea otter in California; coordinating research and management programs, particularly those involving species in serious jeopardy; and maintaining an overview of activities affecting species or habitats of critical concern.

With respect to the Antarctic, we continued, as we have since 1975, to work both here and abroad to see the convention on the conservation of Antarctic marine living resources become a reality. The convention was ratified on December 16, 1981, signed by the President on February 2, 1982, and entered into force on April 4. Shortly, the International Antarctic Commission and the Scientific Committee will take form and the first meetings of each will be held early this summer. One step to help prepare the United States for these meetings was taken on March 16 and 17, when, based on a Commission initiative, U.S. scientists met together to consider scientific questions which should be addressed this summer. The work done by these scientists should force longer range planning and consideration of critical living resource issues in a timely rather than crisis fashion—something we consider essential if international conservation efforts are to be effective and done at reasonable cost.

To help resolve marine mammal-fishery conflicts, the Commission has initiated and supported a number of projects including much of the earliest work on this difficult set of issues. This fall, the Commission convened a meeting of State and Federal Government officials and private citizens to review and coordinate the research programs being conducted by the States of Washington, Oregon, and California and the Federal agencies. The meeting report, published in April, will help to further cooperative research efforts among a number of States and the Federal Government to resolve these issues.

Throughout this past summer and fall, members of the Commission, its scientific committee, and its staff worked on various aspects of the question of return of management of marine mammals to the State of Alaska. Thanks to certain amendments in the act which became law on last October 9 and to the increased commitment on the part of all parties, resolution of the problem now seems possible. The Commission will continue to work throughout fiscal years 1982 and 1983 on this problem with the State of Alaska, involved Federal agencies, and other States with a similar marine mammal interest.

The Commission's continued attention to the California sea otter problem is bearing fruit. For example, the recovery plan has recently been completed. Also, the project initiated with Commission funds to compile, map, and evaluate relevant socioeconomic as well as biological and ecological data is being managed and supported by the Fish and Wildlife Service. When finished this summer, it will set forth clearly the various factors to be considered in deciding how best to facilitate the population's recovery while minimizing impacts on fisheries. It will provide those in Government, those involved with sea otter conservation and protection, and those with fisheries interests the objective overview needed to make sound decisions.

In addition to the actions just described, we continue to meet our ongoing statutory responsibilities in fiscal year 1982 as we shall in fiscal year 1983. Among these are:

To recommend to the Secretaries of Commerce, Interior, and State needed actions to protect and conserve marine mammals;

To help coordinate academic, State, Federal, and international research and study efforts to increase the flow of information and prevent wasteful, duplicative research;

To manage and publish the results of a research and studies program in which specific problems bearing on marine mammal protection and conservation are addressed;

To recommend to the Secretaries of Commerce and Interior actions on the issuance of permits to take marine mammals;

To make recommendations to the Secretaries of Commerce and Interior on waivers of the moratorium, the resumption of State management and related matters; and

Finally, to participate in and make recommendations regarding the U.S. posture in international negotiations affecting marine mammals.

While meeting our statutory responsibilities in fiscal year 1983, we shall also focus on: implementing the Hawaiian monk seal recovery plan, the southern sea otter recovery plan, and the convention on the conservation of Antarctic marine living resources. In addition, we shall help develop an ecologically sound regime for Antarctic mineral exploration and exploitation; continue to work on the return of marine mammal management to the State of Alaska; identify and develop measures to mitigate marine mammal-fishery conflicts; and improve the planning and coordination of Federal and State marine mammal research and management programs.

The money available in fiscal year 1983 will be used to convene workshops and planning meetings to address resolution of identified problems and to support the development of specific data or information necessary for resolution. This approach has proven effective in addressing the tuna-porpoise problem, other marine mammal-fishery interaction issues, conservation of Antarctic whales and seals and their ecosystems, as well as the protection of endangered species such as the West Indian manatee. As in the past, the Commission will work closely with involved States in these efforts.

In conclusion, the Commission, among other things, has been instrumental in: developing domestic policies to protect and conserve marine mammals; facilitating development of and providing guidance with respect to the negotiation of international agreements affecting marine mammal conservation; developing biologically sound and legally constructive approaches to requests for waivers of the moratorium; working with State agencies to facilitate marine mammal conservation and protection; assuring that research needs are defined clearly and that research programs are planned and coordinated so as to obtain needed information as quickly and as economically as possible. We have attempted to objectively exercise our overview responsibilities to assist agencies in addressing critical issues; insure that agencies seek to enforce the provisions of the act; and provide an overview of activities conducted pursuant to the act.

For fiscal year 1983, the administration requests $594,000 for the continuation of this important work. This amount will allow us to carry out our independent overview functions and invest in certain essential reviews and studies.

Thank you, Senator.

TWELVE PERCENT REDUCTION

Senator WEICKER. The $594,000 is what, a 12-percent reduction?

Mr. Twiss. Approximately so, Senator Weicker. It is a reduction from $672 to $594.

Senator Weicker. How does that affect your work?

Dr. MacCallum. I think the Commission will continue to be effective, but we would be more effective if we had a bit more money and a bit larger staff.

Senator Weicker. What are you talking about in personnel reductions?

Mr. Twiss. One more person goes this current year and one at the beginning of this coming fiscal year; we reduce our staff to seven in the beginning of fiscal year 1983.

ADDITIONAL COMMITTEE QUESTIONS

Senator Weicker. There are some additional questions that we will submit to you for your response.

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Question:

Will you please tell this Committee what the law reads regarding the appointment of the Executive Director of the Commission?

Answer:

The law reads: "The Commission shall have an Executive Director, who shall be appointed . . . by the Chairman with the approval of the Commission." In short, it is by concurrence of all three Commissioners that personnel actions affecting the Executive Director are taken.

Question:

Specifically, who has the authority to fill that position?

Answer:

The Chairman, with the concurrence of his fellow Commissioners.

Question:

Has a decision been made on that position?

Answer:

Chairman Nofziger, Dr. Weeden, our fellow Commissioner, and I all concurred in Dr. Nofziger's 30 December 1981 request to the Office of Personnel Management (a reiteration of a request first made by the former Commission Chairman, Dr. Douglas G. Chapman, on 15 August 1981) that a Non-Career Senior Executive Service Appointing Authority be granted the Commission for the current Executive Director. In the absence of a positive response, a subsequent request was made, with the concurrence of all of us, on 10 May 1982. That request has yet to be responded to.

Question:

The Commission's 1983 budget request of $594,000 represents a 12 percent reduction from 1982. Is this the level of funding the Commission requested from OMB?

Answer:

No. The Commission requested $750,000.

Question:

Would you briefly describe the activities which would be eliminated at the proposed funding level?

Answer:

With an appropriation of $594,000, it will not be possible to do the following things which were a part of our request at the $750,000 level:

1.	assist in preparing U.S. positions for international negotiations affecting marine mammals -- e.g., meetings of the International Whaling Commission, the Antarctic Living Resources Commission, and the North Pacific Fur Seal Commission;	25,000
2.	critique all Federal actions that may affect marine mammals -- e.g., proposed Fishery Management Plan, OCS oil and gas leases, marine sanctuary proposals;	5,000
3.	fully evaluate and coordinate Federal, state, and private research programs -- e.g., cetacean and pinniped research being conducted and planned by the NMFS, BLM, various states, and academic institutions;	16,000
4.	facilitate development of an optimal long-range management strategy for the California sea otter population;	20,000
5.	continue development of data and procedures to define and mitigate marine mammal fishery conflicts in Alaska, Hawaii, Washington, Oregon, California, New England, Florida, and elsewhere;	40,000
6.	develop more effective and economical means for assessing and detecting the possible direct and indirect effects of offshore oil and gas development; and	15,000
7.	assist states (e.g., Alaska, Oregon, Washington, California) in making status of stocks determinations so as to facilitate return of management.	35,000

Question:

The Commission has been foresighted in directing attention to marine mammals in Antarctica's Southern Ocean as evidenced by the Convention on the Conservation of Antarctic Marine Living Resources. What is the status of the Living Resources Convention?

Answer:

The Convention was ratified on 16 December 1981, signed by the President on 2 February 1982, and entered into force on 4 April 1982. As this is written, Dr. Hofman, the Commission's Scientific Program Director is in Australia participating in the first meetings of the Antarctic Commission and the Scientific Committee established under the Convention. He is the senior United States scientific representative.

Question:

Have any agreements been reached on marine resource protection activities?

Answer:

Aside from the agreements on principles, standards, and procedures as expressed in the Convention itself, we expect further substantive progress to be made during the meetings now underway. Dr. Hofman will report on that progress to your staff on his return.

Question:

The National Marine Fisheries Service was appropriated $400,000 for Hawaiian monk seal research in FY 1982. Have they consulted with the Commission on their on-going and planned activities, and what results do you expect from these efforts?

Answer:

Consultation by the National Marine Fisheries Service with both the State of Hawaii and the Marine Mammmal Commission has not been adequate. It was, in fact, avoided, in spite of our repeated requests, until after research had actually begun. With respect to anticipated results, our concerns are such that we believe intensive on-site reviews are essential.

Both the Executive Director and Scientific Program Director are going to Hawaii in June to review the entire situation with representatives of the State, the National Marine Fisheries Service, the Fish and Wildlife Service, and private individuals.

Question:

The Commission was appropriated funds in the past for protection of the endangered West Indian manatee. Would you please describe the progress that has been made?

Answer:

Your question is most adequately answered by providing the manatee section from our recent Annual Report:

West Indian Manatee (Trichechus manatus)

Along with the Hawaiian monk seal, the right whale, and the bowhead whale, the West Indian manatee is among the most endangered of marine mammals inhabiting the coastal waters of the United States. The population in Florida is thought to be somewhat above 1,000 animals, but evidence suggests that it continues to decline. The level of mortality based on recovered carcasses was: 99 animals in 1977; 79 animals in 1978; 73 animals in 1979; 63 animals in 1980; and 111 animals in 1981, a year of exceptionally cold weather. There is little question that because of these mortality levels the Florida manatee population remains in serious jeopardy with extinction a possibility.

Human-related factors which diminish the species' chance for survival in the southeastern United States include: accidental death or serious injury resulting from collisions with hulls or propellers of boats and barges; entrapment in water level control gates and navigation locks; entanglement in fishing gear; poaching; vandalism; and loss of habitat due to coastal development.

As detailed in past Annual Reports, the Commission spent several years attempting to persuade Federal agencies to accelerate activities with regard to protecting and encouraging the recovery of this species. The results of these efforts were initially discouraging, but, beginning in 1980, the situation started to improve. During that year, the U.S. Fish and Wildlife Service, the agency responsible for the manatee under the Marine Mammal Protection Act and the Endangered Species Act, intensified its efforts significantly, and the number of cooperative undertakings among the State of Florida agencies, Federal Government agencies, and private organizations increased markedly.

Much progress was due to Congress' appropriation of an additional $100,000 to the Commission in FY 1980 specifically for use in addressing West Indian manatee problems. A detailed accounting of the Commission's expenditure of these funds as well as its activities in other areas is provided in the 1980 Annual Report. In brief, the money was spent as follows: $50,000 to the U.S. Fish and Wildlife Service to support the first year's work of a Manatee Recovery Activities Coordinator; $25,000 to the Service to support a pilot program to develop a site-specific research/management plan for the Crystal River area; $18,000 to the Service to assess and characterize food preferences and manatee feeding areas in certain parts of Florida; and three contracts to the Florida Department of Natural Resources, $6,700 for a series of training workshops for enforcement personnel, $5,000 for publication of a field manual for the Florida Marine Patrol, and $4,200 to support its Manatee Technical Advisory Council.

Thus, 1980 ended with increased levels of cooperation and communication as well as intensified commitments to meet problems by both governmental and non-governmental organizations. Improved law enforcement, the creation of specially protected areas, better public information and education programs, strengthened research and studies programs, and a generally heightened awareness of the problems were all evident.

Progress on manatee protection and recovery efforts continued during 1981. The strong cooperative spirit between the State and Federal Governments was further strengthened with beneficial results. One example of improvement can be seen in enforcement. The training workshops held by the Florida Marine Patrol during 1980 for its officers and those of the Game and Freshwater Fish Commission were a success, and more stringent enforcement of manatee regulations and a significant increase in the number of arrests and convictions for violations of those regulations resulted. In 1979, Florida Marine Patrol officers made 31 arrests and issued 190 warnings; in 1980, the figures were 129 arrests and 850 warnings; and in 1981, there were 301 arrests and 757 warnings. Florida Game and Freshwater Fish Commission officers' combined totals for manatee-related arrests and warnings were 200 in 1980 and 445 in 1981. Another example of an important improvement was the activation of the Department of Natural Resources' Manatee Technical Advisory Council which proved itself a source of informed advice and considerable value to the State. The year 1981 was also one of continued strengthening of the public information and education programs of both the Department of Natural Resources and the Game and Freshwater Fish Commission.

In addition, 1981 saw the beginning of extensive cooperation among the Florida Department of Natural Resources, the U.S. Army Corps of Engineers, and the U.S. Coast Guard to substantially increase the number and size of signs alerting boaters to the presence of manatees. Installation of a comprehensive network of signs, first agreed upon in 1980, was begun by the Corps of Engineers late in 1981. Through the efforts of the Department of Natural Resources, the Coast Guard and the Corps, the posting of new signs will continue throughout the 1981-82 winter season and completion is expected by early spring of 1982. Work on the posting of signs has been significantly helped through the generosity of popular singer Jimmy Buffett, who during the year held two concerts for the benefit of manatee protection and conservation and subsequently donated $35,000 to the Florida Department of Natural Resources to assist in preparing and posting signs.

Among the many involved Federal agencies working on manatee conservation, the National Aeronautics and Space Administration contributed significantly to manatee protection with its new, specially-designed ships for recovering the solid rocket boosters jettisoned from Columbia spacecraft. Although the ships are moved by conventional propeller while traveling at sea, they are moved by water-jet propulsion systems when traveling the coastal and inland waters adjacent to the Space Center. Thanks to NASA's having eliminated the threats posed by moving propellers in these waters, there have been no instances of death or injury resulting from the recovery ships' activities in these heavily populated manatee areas.

On 29 January 1981, the Fish and Wildlife Service's Draft Manatee Comprehensive Research Plan was forwarded to the Commission for review. Although a critical section on manatee research was still under revision by the Service and not included, the Commission commented on 3 March, noting that it had reviewed the Draft in consultation with its Committee of Scientific Advisors on Marine Mammals and had found it to be, with the exception noted, a fully adequate basis for moving to the next stage, i.e., the development of detailed scopes of work for each program element or task. The Commission cited the importance of completing the research section so a meaningful evaluation of the overall Plan could be made.

Although a meeting to review the Draft Comprehensive Work Plan was scheduled for 28-29 April, the Commission recommended to the Service on 15 and 22 April that the meeting be postponed until the research section had been completed and circulated for review. This was done and in early May, the Commission worked with Service representatives to review a revised research section for the work plan which was then considered at the review meeting eventually held on 19-20 May.

On 28 October the Commission received the revised Comprehensive Work Plan from the Service. After consultation with its Committee of Scientific Advisors, the Commission commented on 20 November that: in most cases, the Plan provided a clear description of the studies and other activities necessary to protect manatees and their habitats in U.S. waters; target completion dates were not provided for identified tasks; overlap appeared to exist among some of the listed tasks and associated costs estimates; some cost estimates seemed high while others low; and additional tasks, such as the study of cumulative effects, might be usefully added. The Commission also suggested that identifying priorities and establishing an implementation schedule might be expedited by indicating immediate, intermediate, and long-range objectives and then evaluating each task with respect to its likely contribution to meeting the objectives. The point was considered important since priority funding decisions might otherwise emphasize only short-term solutions at the expense of critical long-term projects. At the end of 1981, the Comprehensive Work Plan was being finished and was expected to be approved and appended to the Recovery Plan in early 1982.

On 16 April, the Commission, in consultation with its Committee of Scientific Advisors, responded to a request from the Federal Office of Coastal Zone Management for comment on the Draft Environmental Impact Statement for the Florida Coastal Management Program. The comments noted that, although the West Indian manatee is one of this country's most endangered marine mammals and that the population is centered in Florida waters, the Program Statement did not address manatee recovery activities. The Commission also noted that it was not clear how coordination under the Florida program would help to achieve the stated policy to protect endangered and threatened species and suggested that the Draft Memorandum of Understanding between various State departments be expanded to identify coordination needs relative to these species. It was also suggested that the Florida Department of Natural Resources' responsibilities might be expanded to address cooperative efforts between the State Coastal Management Program and itself to protect habitat and encourage the recovery of endangered and threatened species.

On 11 May, the Commission wrote the Commandant of the U.S. Coast Guard to advise the agency that the Commission had recently learned that the Coast Guard might be considering establishing a station near the Riviera Beach Power Plant. The Commission pointed out that the area is heavily used by manatees, particularly in winter, and that its use as a staging area for Coast Guard search and rescue craft would pose a serious threat to the species' well-being. Since collisions with boat hulls and propellers have been a major cause of manatee mortality in the past, the Commission expressed its hope that the Coast Guard could base its craft elsewhere so as to minimize such threats. The matter remained under review at the end of 1981.

On 6 July, the Commission commented to the Army Corps of Engineers on a permit application to carry out dredge and fill activities in Indian River County. The Commission expressed concern that the proposed activity would have long-term adverse effects on the habitat while, in the short term, the activities themselves would increase the potential for death and injury from collisions. The Commission recommended that the Corps consult with the U.S. Fish and Wildlife Service on potential direct and indirect effects on manatees and the habitat as well as on identification of mitigating measures to ensure that manatees would not be adversely affected, should any of the proposed activities eventually be approved.

On 27 July, the Commission commented on a second application involving a major dredge and fill project on the Indian River about 30 miles from the site mentioned above. The Commission advised that both direct and indirect threats to manatees, through collisions with boats and barges and through habitat loss, were germane to the consideration of this project, and recommended that, if consultations with the Fish and Wildlife Service were not already underway, they be undertaken to determine the nature and extent of potential effects and to identify possible mitigating measures. The Commission also noted that, because of the proximity of the two projects, consideration of cumulative effects should be taken into account during the course of consultations.

On 17 June, the Commission received from the Fish and Wildlife Service a draft report on a project supported with funds provided the Service by the Commission. The project dealt with assessing and characterizing feeding habits, food preferences, and feeding areas of manatees in the Hobe Sound-Riviera Beach area. On 23 July, following consultation with its Committee of Scientific Advisors, the

Commission commented, noting that the draft reflected a thorough review of available published and unpublished information and that important new information had been generated which would provide a much improved understanding of winter distribution, feeding activity, and feeding habits of manatees in that area. The Commission made some suggestions for restructuring and editing and, on 30 September, received copies of the final report which incorporated most of the Commission's comments. The final report is an important source of information for guiding further research and management activities.

On 19 October and 2 November, the Service forwarded for review and comment portions of a draft research/management plan for the Crystal River, also being developed with Commission support. The Commission commented on 9 November that the legal analysis section of the draft was inadequate for a number of reasons and further comment on this portion was withheld pending the Service's in-house review of the text. On 12 November, the Commission, after consultation with its Committee of Scientific Advisors, commented on the balance of the draft. It noted that the report did not constitute a research and management plan and did not meet reporting requirements set forth in the Agreement between the Commission and the Service. Although the draft indicated that much relevant information had been compiled and evaluated, the report's conclusions did not appear to fully reflect this. Noting, however, that this problem might be associated less with content than with format, organization, and an understanding of reporting requirements, the Commission suggested that the Service and the contractor work out a revised format and schedule for producing a new draft suitable for review. To provide assistance, the Commission enclosed a suggested outline.

In 1982, the Commission will continue to work closely with the State of Florida, the U.S. Fish and Wildlife Service, and other involved agencies, groups, and individuals in efforts to protect this endangered species.

SUBCOMMITTEE RECESS

Senator WEICKER. Thank you.

The subcommittee will recess until May 11.

Thank you very much.

[Whereupon, at 10:15 a.m., Thursday, May 6, the subcommittee was recessed, to reconvene at 9:30 a.m., Tuesday, May 11.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MAY 11, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S-146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senators Weicker and Cochran.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

STATEMENT OF CHARLES CLARK, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

ACCOMPANIED BY:

WILLIAM E. FOLEY, DIRECTOR, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

JOHN ALLEN, ASSISTANT DIRECTOR FOR MANAGEMENT SYSTEMS AND SERVICES

EDWARD V. GARABEDIAN, ASSISTANT DIRECTOR FOR PERSONNEL AND FINANCIAL MANAGEMENT

BUDGET REQUEST

Senator WEICKER. The committee will come to order.

I yield to Senator Cochran.

Senator COCHRAN. Mr. Chairman, thank you very much.

We are very happy this morning to hear the budget request for the Courts of Appeals, District Courts, and other judicial services. The amount requested, according to the submission, is $777,600,000, an increase of $46,224,000 over the 1983 base, providing for 14,714 permanent positions, an increase of 1,015 over 1982.

Appearing in behalf of this request is my very good friend and constituent, Judge Charles Clark, who is Chief Judge of the U.S. Court of Appeals for the Fifth Circuit, who is accompanied by Mr. William E. Foley, Director of the Administrative Office of the U.S. Courts.

Judge Clark, welcome. Mr. Foley, welcome. Come forward and have a seat. We appreciate very much your being here and would invite you to proceed in any manner that you desire to present your request.

Judge CLARK. Mr. Chairman, Senator, may I start by saying that there has been a slight change in the figures. We have reduced the request to $771,125,000. The total new positions are 926. We are conceding $6,475,000 and 89 positions because of several adjustments. The largest is an adjustment that we made to the rate of inflation, which happily has been lower than we predicted at the time that we made up the budget. We have reduced the total request by $3,300,000 by reducing the projected rate of inflation from 15 to 8 percent.

In addition to that, the probation service, due to a study and a revision of its needs, has been able to eliminate 89 positions. And we are conceding an additional $2,750,000. West Publishing Co. has also agreed to continue some complimentary law book subscriptions that they give to judges, and this has meant an adjustment of $425,000.

Senators, our total increase over last year is $92,505,000. Of that amount, $49,456,000 is in the category that we call uncontrollables. This is composed of things such as the increase that the General Services Administration has assessed us for rent, for exactly the same space we have been in. They have raised our rent by $20 million, in round figures, for this year's budget.

There are other things, again without any enlargement of services or additional people, that have added to this total of $49-plus million.

The category that I would call for shorthand purposes new people and new programs for this year is $43,049,000.

PREPARED STATEMENTS

I have a prepared statement which I would like to ask be placed in the record. I see no need to read it. A copy has been previously delivered to the committee. If I may have your permission, Mr. Chairman.

Senator WEICKER. The statement will be included in its entirety in the record at this point.

Judge CLARK. Thank you, sir.

Mr. Foley, do you have any other preliminary comments?

Mr. FOLEY. No, sir; except I also have a prepared statement which I would be pleased to submit for the record, if that is agreeable.

Senator WEICKER. Fine. We will include it in the record at this point.

Mr. FOLEY. Thank you.

[The statements follow:]

STATEMENT OF CHARLES CLARK

WE APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE YOU IN SUPPORT OF THE BUDGET ESTIMATES FOR THE OPERATION AND MAINTENANCE OF THE UNITED STATES COURTS OF APPEALS AND DISTRICT COURTS FOR FISCAL YEAR 1983.

MR. WILLIAM E. FOLEY, DIRECTOR OF THE ADMINISTRATIVE OFFICE, AND MEMBERS OF HIS STAFF WILL ASSIST ME IN THE PRESENTATION. TOGETHER WE SHALL ENDEAVOR TO ANSWER ANY QUESTIONS YOU MAY HAVE OR PROVIDE YOU WITH ANY ADDITIONAL INFORMATION YOU MAY DESIRE.

MR. CHAIRMAN, BEFORE GETTING INTO THE DETAILS OF THE JUDICIARY'S BUDGET REQUEST FOR 1983, LET ME SAY THAT WE SHARE THIS COMMITTEE'S CONCERN FOR THE COUNTRY'S CURRENT ECONOMIC TROUBLES AND COMMITMENT TO FISCAL RESTRAINT IN THE FACE OF PROJECTED DEFICITS. THE INCREASES WE MUST SEEK REFLECT NO MORE THAN THE COST OF MAINTAINING THE CURRENT LEVEL OF SERVICE. THIS COST IS DRIVEN UP BY EXTRAORDINARY INCREASES IN GSA CHARGES FOR SPACE AND FACILITIES, CASELOADS RAISED BY NEW FILINGS AND RECENT LEGISLATION, AND INFLATION.

ATTACHED TO MY STATEMENT IS A TABLE WHICH REFLECTS THE FIVE-YEAR INCREASES IN CASELOAD. DURING THIS PERIOD, TRIAL COURT FILINGS INCREASED BY 45,000 (26 PERCENT) AND APPEALS INCREASED BY 9,000 (48 PERCENT). BANKRUPTCY FILINGS INCREASED BY 275,000 ESTATES (112 PERCENT), AND THE MAGISTRATES WORKLOAD INCREASED SIGNIFICANTLY. DURING THIS SAME PERIOD, STAFFING IN THE COURTS OF APPEALS, DISTRICT COURTS, AND BANKRUPTCY COURTS INCREASED FROM 10,030 TO 13,011 POSITIONS, A 30 PERCENT INCREASE. IF OUR REQUESTS FOR PERSONNEL FOR 1983 ARE APPROVED, STAFFING WILL TOTAL 14,625 POSITIONS.

BEGINNING IN 1975, GSA STARTED BILLING A STANDARD LEVEL USER CHARGE FOR SPACE OCCUPIED. THIS CHARGE IS ESTIMATED AT $130,475,000 FOR 1983, AND INCLUDES AN INFLATIONARY INCREASE OF 86 PERCENT OR $60,157,000 OVER THE RENTAL RATE OF 1975. THE BANKRUPTCY ACT AND THE 1978 OMNIBUS JUDGESHIP ACT HAVE ADDED SIGNIFICANTLY TO THE

COST OF OPERATING THE FEDERAL JUDICIAL SYSTEM. INCREASES IN FEES AND ALLOWANCES FOR JURORS' EXPENSES, TRAVEL BY JUDICIAL PERSONNEL, AND ANNUAL PERSONNEL SALARY ADJUSTMENTS HAVE ALSO ADDED TO THE BUDGET. INFLATION HAS AFFECTED US THROUGH HIGHER TELEPHONE AND POSTAL RATES, AND INCREASED COSTS FOR SERVICES AND SUPPLIES. SINCE 1976, UNCONTROLLABLE INCREASES SUCH AS THE ABOVE AND EXCLUDING SPACE HAVE ACCOUNTED FOR OVER $200,000,000 OF THE JUDICIARY'S 1983 BUDGET REQUEST.

TO STAY ABREAST OF THE DEMANDS PLACED ON US AND MAINTAIN THE PUBLIC CONFIDENCE NECESSARY TO AN EFFECTIVE JUDICIAL SYSTEM, WE HAVE BEEN AUTOMATING MANY FUNCTIONS, INCLUDING CIVIL AND CRIMINAL DOCKETS, AND BANKRUPTCY NOTICING. WE ARE ALSO CONDUCTING LIMITED EXPERIMENTS WITH NEW TECHNIQUES SUCH AS TELEPHONE CONFERENCING AND ELECTRONIC TRANSMISSION OF OPINIONS, WHICH WILL SAVE LITIGANTS TIME AND MONEY AND ENABLE QUICKER DECISIONS. OUR DUTY TO THE RULE OF LAW REQUIRES US TO REQUEST FUNDING FOR PEOPLE AND EQUIPMENT AT A LEVEL NECESSARY TO KEEP THE COURTS' WORKLOAD GENERALLY CURRENT. THIS BUDGET REQUEST REPRESENTS OUR BEST EFFORT TO HANDLE RISING CASELOADS, IMPROVE JUDICIAL SERVICES, AND KEEP OVERALL COSTS DOWN.

APPROPRIATIONS REQUESTED FISCAL YEAR 1983

THE TOTAL REQUESTED, AS AMENDED BY HOUSE DOCUMENT NO. 97-168, UNDER THE HEADING "COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES" FOR FISCAL YEAR 1983 IS $777,600,000, AN INCREASE OF $98,980,000 OVER THE AMOUNT APPROPRIATED FOR 1982 AFTER TAKING INTO ACCOUNT THE PROPOSED SUPPLEMENTALS FOR FISCAL YEAR 1982. WE ARE, HOWEVER, PREPARED TO CONCEDE $6,475,000 AND HAVE REDUCED OUR ESTIMATE TO $771,125,000. THE REDUCTION IS DUE TO CHANGES IN SOME BASIC ASSUMPTIONS MADE WHEN WE FORMULATED OUR BUDGET SOME MONTHS AGO. AS A RESULT OF AN UPDATE IN OUR PROBATION CASELOAD PROJECTIONS AND THE WEIGHTING OF THOSE CASES, THE SUM OF $2,750,000 AND 89 POSITIONS, I.E., 49 PROBATION OFFICERS AND 40 CLERKS, WILL NOT BE REQUIRED. BASED ON AN ANTICIPATED REDUCTION IN THE RATE OF INFLATION, THE BUDGET HAS BEEN REDUCED

BY $3,300,000. THE REMAINING $425,000 IS A NET REDUCTION RESULTING FROM A DECISION BY THE WEST PUBLISHING COMPANY TO CONTINUE PROVIDING COMPLIMENTARY SUBSCRIPTIONS TO JUDGES OFFSET BY THE REQUIREMENT THAT THE JUDICIARY REIMBURSE THE GOVERNMENT PRINTING OFFICE FOR COPIES OF THE U.S. CODE ANNOTATED, PREVIOUSLY PROVIDED WITHOUT CHARGE. A TABLE REFLECTING THESE CHANGES BY APPROPRIATION ACCOUNT IS ENCLOSED.

MR. CHAIRMAN, MUCH OF THE INCREASE WE ARE REQUESTING IS DUE TO RISING COSTS OF GOODS AND SERVICES, INCLUDING PRINTING, SUPPLIES, EQUIPMENT, LAWBOOKS, TELEPHONE RATES, AND SPACE RENTAL CHARGES. IF WE EXCLUDE THE COST OF THE SO-CALLED ADJUSTMENTS TO BASE AND BUILT-IN CHANGES, WHICH ARE OF AN UNCONTROLLABLE NATURE AND WHICH IN FISCAL YEAR 1983 ARE ESTIMATED AT $49,456,000, THE INCREASE IN OUR BUDGETARY REQUIREMENTS WOULD BE $43,049,000, OR APPROXIMATELY 6.3 PERCENT.

WE ARE REQUESTING A NET INCREASE OF 926 POSITIONS FOR THE COURTS OF APPEALS AND DISTRICT COURTS, OF WHICH 712 ARE UNDER THE HEADING "SALARIES OF SUPPORTING PERSONNEL" AND 215 ARE FOR THE BANKRUPTCY SYSTEM, LESS ONE JUDGESHIP RESULTING FROM THE TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF PANAMA. THIS REPRESENTS AN INCREASE OF 7 PERCENT IN TOTAL PERSONNEL REQUIREMENTS OVER THE NUMBER IN OUR 1982 BUDGET.

CASELOAD

DESPITE AN INCREASE IN TERMINATIONS, THE PENDING CASELOAD IN THE COURTS OF APPEALS REACHED ANOTHER RECORD HIGH OF 22,194. THE ADDITIONAL JUDGESHIPS PROVIDED IN 1978 HAVE HAD A SIGNIFICANT EFFECT ON THE RATE OF DISPOSITIONS. THE NUMBER OF TERMINATIONS IN FISCAL YEAR 1981 INCREASED BY 18.5 PERCENT OVER THE NUMBER OF TERMINATIONS IN 1980. HOWEVER, EVEN THIS SIGNIFICANT INCREASE IN TERMINATIONS HAS NOT KEPT PACE WITH THE GROWTH IN NEW FILINGS. WE HAVE CONCLUDED THAT THE JUDGES IN THE COURTS OF APPEALS WILL CONTINUE TO CARRY A VERY HEAVY CASELOAD BECAUSE OF THE INCREASE

IN THE VOLUME OF APPEALS GENERATED BY THE ACTIVITIES OF THE NEW DISTRICT JUDGES.

WITH REGARD TO THE DISTRICT COURTS, THE DECLINING TREND IN CRIMINAL FILINGS FROM 1975 THROUGH 1980 HAS REVERSED. CRIMINAL FILINGS INCREASED FROM 29,387 IN 1980 TO 31,280 IN 1981. THE TREND IN CIVIL FILINGS CONTINUES TO MOVE UPWARD WITHOUT PAUSE. CIVIL FILINGS HAVE INCREASED BY 42.1 PERCENT OVER THE PAST FIVE YEARS. NOTWITHSTANDING THE SUBSTANTIAL INCREASE IN TERMINATIONS, THE GROWTH IN CIVIL AND CRIMINAL FILINGS HAS CAUSED THE PENDING CASELOAD TO GROW BY 32.4 PERCENT, TO A RECORD HIGH OF 211,847.

BANKRUPTCY FILINGS IN 1981 REACHED AN ALL-TIME RECORD HIGH OF 521,637. THIS REPRESENTS AN INCREASE OF 23.8 PERCENT OVER LAST YEAR AND AN INCREASE OF 111.6 PERCENT OVER THE LAST FIVE YEARS.

SALARIES OF JUDGES

MR. CHAIRMAN, OUR REQUEST IS BASED ON ANTICIPATED VACANCIES AND THE NUMBER OF JUDGES THAT WILL TAKE SENIOR STATUS. IT IS CONTEMPLATED THAT IN FISCAL YEAR 1983 THERE WILL BE, ON THE AVERAGE, 30 JUDGESHIP VACANCIES. IN ADDITION, PROVISION HAS BEEN MADE FOR AN ESTIMATED NET INCREASE OF TEN JUDGES WHO WILL TAKE SENIOR STATUS IN FISCAL YEAR 1983. BY 1983, 109 JUDGES WILL BE ELIGIBLE TO TAKE SENIOR STATUS.

SALARIES OF SUPPORTING PERSONNEL

WE HAVE REQUESTED AN INCREASE OF 712 SUPPORTING PERSONNEL FOR THE COURTS OF APPEALS AND DISTRICT COURTS. A SUMMARY OF THE ADDITIONAL POSITIONS IS CONTAINED ON PAGE 7.3 OF OUR BUDGET JUSTIFICATIONS AND PAGE A-1.2 OF THE PROPOSED AMENDMENT.

THE MAJOR PORTION OF THE INCREASE IN POSITIONS IS THE RESULT OF A STAGGERING INCREASE IN WORKLOAD IN THE DISTRICT COURTS CLERKS' OFFICES AND THE NEED TO FULLY IMPLEMENT A REVISED WORK MEASUREMENT FORMULA DEVELOPED FOR THE PROBATION SYSTEM.

In order to handle the significant increases in the number of filings in both the United States courts of appeals and the United States district courts, 455 additional deputy clerks are being requested. This is based on the current staffing formulas approved by the Judicial Conference of 75 to 1 in the courts of appeals and 100 to 1 in the district courts. A new staffing formula for clerks' offices in the district courts was just recently adopted by the Judicial Conference. This formula was not, however, used in calculating our requirements for 1983.

As a result of the most recent work measurement study of the probation system, we are requesting an additional 130 positions. Because of the increase indicated by this in-house study, the Administrative Office, at the request of the Budget Committee, contracted with a private organization to assess the staffing standards development process and the related manpower requirements that were determined as necessary by the Judiciary's management engineering staff. The independent Contractor's findings supported the conclusions of the work measurement study as a first generation effort. Proposed refinements will be incorporated in subsequent updates of the work measurement formula.

Last year, your Committee showed its support of the National Court Library System with the approval of 18 additional library positions. In keeping with the recommendations of your Committee, the Judiciary is phasing in the expansion of the National Court Library System over a five-year period. The plan is presented on page 7.34 of the budget justification. In keeping with our plan, the Judiciary is requesting 18 positions to continue to expand the satellite library concept, which provides a center for legal research and services. These libraries have begun to eliminate the costly duplication of lawbook purchases and continuation material. The positions requested will be used to increase the services at current locations and for the establishment of 11 additional satellite libraries.

I WOULD ALSO LIKE TO POINT OUT THAT THE BUDGET AGAIN REQUESTS FUNDS IN THE AMOUNT OF $1,367,000 TO MODIFY THE JUDICIAL SALARY PLAN. THE MODIFICATION IS REQUESTED IN RECOGNITION OF THE CHANGE IN THE ROLE OF THE JOURNEYMAN PROBATION OFFICER AND THE DEPUTY CLERKS IN CHARGE OF FINANCIAL OPERATIONS AND JURY ADMINISTRATION. LAST YEAR YOUR COMMITTEE DENIED OUR REQUEST FOR THIS MODIFICATION BUT SAID IT WOULD RECONSIDER A RECLASSIFICATION OF THE POSITIONS IF THE JUDICIARY COULD DEMONSTRATE CONSISTENCY WITH THE CLASSIFICATION STANDARDS PRESCRIBED FOR SIMILAR POSITIONS IN THE EXECUTIVE BRANCH AND COMPARABILITY WITH SIMILAR POSITIONS IN STATE AND LOCAL COURTS.

IN SUPPORT OF OUR REQUEST, THE JUDICIARY COMPARED THE PROBATION OFFICER AND DEPUTY CLERK POSITIONS WITH THE CLASSIFICATION STANDARDS PRESCRIBED BY THE OFFICE OF PERSONNEL MANAGEMENT AND WITH COMPARABLE POSITIONS IN THE STATE AND LOCAL COURTS. BY APPLYING THE CLASSIFICATION STANDARDS PUBLISHED BY THE OFFICE OF PERSONNEL MANAGEMENT, IT WAS FOUND THAT RAISING THE GRADE LEVEL OF THE SENIOR PROBATION OFFICER IS SIMILAR TO THE PRACTICES CURRENTLY USED BY EXECUTIVE BRANCH LAW ENFORCEMENT AGENCIES. THESE AGENCIES RECOGNIZE THE NEED FOR A HIGHER GRADE FOR CERTAIN NONSUPERVISORY WORKING LEVEL GRADE 13 AGENTS WHO ASSUME THE MORE DIFFICULT CASES OR LEAD A GROUP OF AGENTS IN RESOLVING THE MORE COMPLEX CASES. CLASSIFICATION STANDARDS PUBLISHED BY THE OFFICE OF PERSONNEL MANAGEMENT DO NOT PROVIDE ADEQUATE GUIDELINES FOR THE FINANCIAL AND JURY DEPUTY POSITIONS.

IN A COMPARISON WITH SIMILAR STATE AND LOCAL POSITIONS, IT WAS FOUND THAT, AS IS TYPICAL WHEN TRYING TO COMPARE MOST FEDERAL POSITIONS WITH STATE AND LOCAL POSITIONS, THE SALARIES IN THE FEDERAL SYSTEM WERE HIGHER. HOWEVER, THE JUDICIARY DID FIND IN STATE AND LOCAL COURTS THAT HIGHER SALARY DIFFERENTIALS WERE PAID TO SENIOR PROBATION OFFICERS AND SPECIALISTS IN RECOGNITION OF THE SKILLS REQUIRED FOR DRUG AND ALCOHOL TREATMENT AND SOCIAL COUNSELING. WITH REGARD TO FINANCIAL AND JURY DEPUTIES, MOST STATES RANKED THESE POSITIONS IN RELATION TO OTHER COURT PERSON-

NEL FROM THE POINT OF VIEW OF SALARY IN THE SAME ORDER AS THEY ARE RANKED IN OUR PROPOSED JUDICIAL SALARY PLAN.

DEFENDER SERVICES

WE ARE REQUESTING AN INCREASE IN THIS APPROPRIATION FOR FISCAL YEAR 1983 IN THE AMOUNT OF $4,660,000. MUCH OF THE INCREASE IS ASSOCIATED WITH THE IMPACT OF INFLATION ON THE PROGRAM. AS YOU KNOW, THE DEFENDER SERVICES APPROPRIATION IS SUBJECT TO LITTLE, IF ANY, CONTROL SINCE OUR BUDGETARY REQUIREMENTS ARE GEARED TO THE NUMBER OF PERSONS REQUIRING REPRESENTATION BY COURT-APPOINTED COUNSEL OR BY DEFENDER ORGANIZATIONS. THIS IS A "NO-YEAR" APPROPRIATION AND IF THERE IS ANY BALANCE AT THE END OF THE FISCAL YEAR, IT WILL BE CARRIED FORWARD AND WILL BE AVAILABLE IN THE SUCCEEDING YEAR.

IN ADDITION, THE SUM OF $2,350,000 IS BEING REQUESTED AS A PROGRAM SUPPLEMENTAL IN FISCAL YEAR 1982 TO COVER THE COST ASSOCIATED WITH A PROJECTED INCREASE IN THE TOTAL NUMBER OF PERSONS REPRESENTED UNDER THE CRIMINAL JUSTICE ACT, A PROJECTED INCREASE IN THE AVERAGE COST PER CASE, AND TO BRING THE SALARIES PAID TO COMMUNITY DEFENDER ORGANIZATIONS IN LINE WITH THOSE OF THE FEDERAL PUBLIC DEFENDER STAFF.

FEES OF JURORS AND COMMISSIONERS

THE INCREASE IN OUR BUDGETARY REQUIREMENTS IS DUE PRIMARILY TO AN ANTICIPATED INCREASE IN THE USE OF GRAND AND PETIT JURORS. AS IN THE DEFENDER SERVICES APPROPRIATION, THIS ACCOUNT IS SUBJECT TO LITTLE CONTROL SINCE OUR BUDGET IS GEARED TO THE NUMBER OF PERSONS REQUIRING JURY TRIALS AND THE NUMBER OF GRAND JURIES EMPANELED AT THE REQUEST OF UNITED STATES ATTORNEYS.

LAST YEAR YOUR COMMITTEE EXPRESSED CONCERN WITH THE LACK OF IMPROVEMENT IN THE JURY UTILIZATION RATE OVER THE PAST FEW YEARS. IN ADDITION, THE COMMITTEE STATED ITS SUPPORT OF THE RECOMMENDATION OF THE GENERAL ACCOUNTING OFFICE (GAO) THAT MORE MEANINGFUL STATISTICS SHOULD BE USED IN MANAGING AND MONITORING JUROR USAGE, AND REQUESTED A REPORT ON THE JUDICIARY'S EFFORTS TO COMPLY WITH GAO'S RECOMMENDATIONS.

WHILE WE FEEL THAT SUBSTANTIAL PROGRESS HAS BEEN MADE OVER THE PAST 10 YEARS IN MORE EFFECTIVE UTILIZATION OF JURORS, FURTHER IMPROVEMENT CAN BE ACHIEVED. MR. CHAIRMAN, IN THIS REGARD, THE JUDICIARY TRANSMITTED A REPORT TO YOUR COMMITTEE IN FEBRUARY WHICH OUTLINED THE EFFORTS TO DATE AND FUTURE PLANS TO COMPLY WITH EACH OF THE THREE JURY UTILIZATION RECOMMENDATIONS OF GAO.

THE HIGHLIGHTS SHOW THAT ALMOST ALL THE CIRCUIT COUNCILS HAVE TAKEN SPECIFIC STEPS TO INCREASE THEIR OVERSIGHT OF JUROR UTILIZATION PRACTICES. CURRENTLY, EIGHT OF THE 12 CIRCUITS HAVE HELD OR HAVE DECIDED TO HOLD A JUROR UTILIZATION EDUCATION PROGRAM FOR JUDGES, AND ONE HAS HELD A WORKSHOP FOR DISTRICT COURT CLERKS AND JURY DEPUTIES. THE CONCERNED DIVISIONS IN THE ADMINISTRATIVE OFFICE HAVE COORDINATED THEIR EFFORTS TO COMPILE JURY INFORMATION FOR USE BY THE CIRCUIT COUNCILS AND DISTRICT COURTS. A REVISED PETIT JURY USAGE REPORT IS BEING DEVELOPED WHICH WILL ALLOW FOR STATISTICAL COMPILATIONS HIGHLIGHTING FIRST DAY JUROR USAGE AS WELL AS PROVIDE THE OVERALL STATISTICS CURRENTLY IN USE. IN ADDITION, THE FEDERAL JUDICIAL CENTER IS PLANNING A SERIES OF SEMINARS TO INSTRUCT DEPUTY CLERKS IN CHARGE OF JURY ADMINISTRATION ON TECHNIQUES THAT CAN IMPROVE JUROR UTILIZATION.

EXPENSES OF OPERATION AND MAINTENANCE OF THE COURTS

EXCLUDING THE ADJUSTMENTS TO THE BASE APPROPRIATION FOR SO-CALLED BUILT-IN CHANGES, WE ARE REQUESTING AN INCREASE OF \$5,804,000, OF WHICH \$3,124,000 ARE FOR EXPENSES RELATING TO THE REQUEST FOR NEW PERSONNEL UNDER THE HEADING "SALARIES OF SUPPORTING PERSONNEL," \$2,280,000 ARE FOR EXISTING PROGRAMS AND ACTIVITIES, \$200,000 ARE REQUESTED TO EXPAND ELECTRONIC MAIL TO THE FIFTH AND ELEVENTH CIRCUITS, AND \$200,000 ARE TO EMBARK ON A MULTI-YEAR PROGRAM FOR THE INCREASED USE OF TELEPHONE CONFER-

ENCING IN THE COURTS. TELEPHONE CONFERENCING HAS BEEN USED SUCCESSFULLY IN THE NORTHERN DISTRICT OF CALIFORNIA FOR THE LAST TWO AND ONE-HALF YEARS. THE TECHNIQUE ELIMINATES THE NEED FOR THE TRADITIONAL PERSONAL APPEARANCES BY COUNSEL IN OPEN COURT WHICH GREATLY REDUCES THE COST OF SUCH HEARINGS TO THE LITIGANTS. EQUIPMENT FOR THE PROGRAM IS MINIMAL AND CONSISTS OF A PORTABLE CONFERENCE TELEPHONE WITH SPEAKER CAPABILITIES AND AN ADDITIONAL DEDICATED FTS TELEPHONE LINE. IT IS ESTIMATED THAT THE $200,000 WILL PROVIDE CONFERENCING CAPABILITIES FOR APPROXIMATELY ONE THIRD OF THE DISTRICT JUDGES.

BANKRUPTCY COURTS, SALARIES AND EXPENSES

FISCAL 1981 RECORDED THE HIGHEST LEVEL OF BANKRUPTCIES IN HISTORY. BANKRUPTCY ESTATE FILINGS REACHED 521,637, UP AN ASTRONOMICAL 280,983 CASE FILINGS OVER FISCAL YEAR 1979, AND 100,211 CASE FILINGS OVER FISCAL YEAR 1980. IT APPEARS THAT WE MAY BE REACHING A LEVELING OFF POINT IN FISCAL YEARS 1982 AND 1983.

IN ORDER TO ACCOMMODATE THE FILING INCREASE, WE ARE REQUESTING 160 ADDITIONAL DEPUTY CLERK POSITIONS. AS YOU KNOW, THE STAFFING REQUEST IS BASED ON A RECENTLY APPROVED WORK MEASUREMENT STUDY. THIS STUDY'S RESULTS WERE ALSO VERIFIED BY A PRIVATE CONTRACTOR. IT SHOULD BE NOTED, BASED ON AN ESTIMATED 570,000 CASE FILINGS, THAT THE PREVIOUS FORMULA WOULD HAVE ALLOWED AN ADDITIONAL 650 POSITIONS ABOVE THE NUMBER WE HAVE REQUESTED.

MR. CHAIRMAN, LAST YEAR WE REQUESTED FUNDS TO EXPAND THE NUMBER OF COURTS PARTICIPATING IN THE COMPUTERIZATION OF BANKRUPTCY NOTICES AND CLAIMS. YOUR COMMITTEE DEFERRED ACTION ON OUR REQUEST AND ASKED FOR A REPORT FROM THE JUDICIARY ON ITS FINDINGS IN THE COURTS CURRENTLY PARTICIPATING IN THE PILOT PROGRAM. THE JUDICIARY HAS FILED THIS REPORT WITH YOUR COMMITTEE.

ESSENTIALLY, THE STUDY FOUND THAT THE AUTOMATED NOTICING PROGRAM WAS FEASIBLE AND WOULD PRODUCE SAVINGS IN PERSONNEL REQUIREMENTS. A COST-BENEFIT ANALYSIS WAS PERFORMED ON CON-

TRACTING FOR THE FUNCTIONS AS OPPOSED TO IN-HOUSE OPERATION. IT WAS DETERMINED THAT A SUBSTANTIAL SAVING WOULD ACCRUE IF THE BANKRUPTCY NOTICING AND CLAIMS FUNCTIONS WERE PERFORMED IN-HOUSE. OUR CURRENT PLAN IS TO EXPAND THE GOVERNMENT-OWNED SYSTEM TO 20 COURTS IN FISCAL YEAR 1983. THE JUDICIARY ESTIMATES THAT ONCE THE SYSTEM IS IN OPERATION IN THESE COURTS A REDUCTION OF 120 POSITIONS WOULD RESULT IN FISCAL YEAR 1984 ASSUMING NO CHANGE IN CASE FILINGS. THE FUNDS TO ACCOMPLISH THE COURT EXPANSION ARE CONTAINED IN THE BUDGET REQUEST FOR THE ADMINISTRATIVE OFFICE.

SERVICES FOR DRUG DEPENDENT OFFENDERS

PUBLIC LAW 95-537 AUTHORIZED THE PROBATION SERVICE TO PROVIDE SERVICES AND SPECIAL SUPERVISION TO DRUG DEPENDENT OFFENDERS. THE JUDICIARY IS REQUESTING $4,500,000 TO PROVIDE DRUG AFTERCARE TREATMENT TO 5,272 DRUG DEPENDENT OFFENDERS. AS OF MARCH 1981, A TOTAL OF 4,279 PERSONS WERE RECEIVING TREATMENT. OUR APPROPRIATION REQUEST IS CONTINGENT UPON PASSAGE OF H.R. 3963 THAT WILL CONTINUE THE DRUG AFTERCARE PROGRAM BEYOND SEPTEMBER 30, 1982.

SPACE AND FACILITIES

THE BUDGET ESTIMATE FOR 1983 IS $159,762,000, WHICH REPRESENTS AN INCREASE OF $36,762,000 OVER THE AMOUNT APPROPRIATED FOR 1982. OF THIS AMOUNT, $22,745,000 IS REQUIRED TO MAINTAIN OUR OPERATIONS AT THEIR CURRENTLY APPROVED LEVELS.

THE SUM OF $6,719,000 IS RELATED TO THE NEW POSITIONS REQUESTED FOR THE OPERATION OF THE COURTS OF APPEALS, DISTRICT AND BANKRUPTCY COURTS. THE REMAINING $7,298,000 IS REQUESTED FOR RENT REQUIRED INCIDENT TO THE OCCUPANCY OF NEW BUILDINGS AND NEWLY CONSTRUCTED AND REMODELED FACILITIES AND TO FURNISH AN ADDITIONAL 11 SATELLITE LIBRARIES.

MR. CHAIRMAN, I WOULD LIKE TO POINT OUT THAT WE HAVE FELT FOR SOME TIME THAT THE STANDARD LEVEL USER CHARGES (SLUC) OF THE GENERAL SERVICES ADMINISTRATION ARE EXCESSIVE. OF THE $36,762,000

INCREASE REQUESTED, $19,549,000 IS EARMARKED TO PAY RENTAL INCREASES TO THE GENERAL SERVICES ADMINISTRATION FOR SPACE CURRENTLY OCCUPIED BY THE COURTS. THESE INCREASES COME AT A TIME WHEN THE GENERAL SERVICES ADMINISTRATION IS REDUCING BUILDING SERVICES THROUGHOUT THE SYSTEM. I THINK IT IS IMPORTANT THAT WE POINT OUT TO THE CONGRESS THE DETERIORATION OF SERVICES IN CONJUNCTION WITH RISING RATES. THE JUDICIARY HOPES THAT CONGRESS, WITH THIS INFORMATION, WILL LOOK CLOSELY AT THE ENTIRE SPACE PROGRAM AS IT IS CURRENTLY ADMINISTERED BY THE GENERAL SERVICES ADMINISTRATION.

IN THE AREA OF COURT SECURITY, THERE CONTINUES TO BE A GROWING CONCERN OVER THE INADEQUACY OF THE SECURITY CURRENTLY PROVIDED TO THE FEDERAL JUDICIARY. THE JUDICIARY HAS BEEN WORKING WITH THE EXECUTIVE BRANCH IN THE DEVELOPMENT OF A COMPREHENSIVE SECURITY SYSTEM. MUCH WORK TOWARD THIS GOAL HAS BEEN PERFORMED IN CONJUNCTION WITH THE ATTORNEY GENERAL'S TASK FORCE ON COURT SECURITY WHICH WAS APPOINTED IN AUGUST OF 1981. THIS MATTER WAS ALSO ADDRESSED IN A JOINT STATEMENT OF THE CHIEF JUSTICE AND THE ATTORNEY GENERAL BEFORE THE JUDICIAL CONFERENCE OF THE U.S., MARCH 11, 1982, A COPY OF WHICH IS ATTACHED. THE JUDICIARY EXPECTS THAT THIS EFFORT WILL LEAD TO SIGNIFICANT IMPROVEMENTS IN THE CURRENT LEVEL OF COURT SECURITY. WE WILL KEEP YOUR COMMITTEE INFORMED OF THE STATUS OF THIS ONGOING EFFORT.

MR. CHAIRMAN, OUR BUDGET ESTIMATES FOR FISCAL YEAR 1983 ESSENTIALLY PROVIDE FOR INFLATION AND PROGRAM INCREASES DIRECTLY RELATED TO GROWTH IN WORKLOAD. OUR REQUESTS FOR FISCAL YEAR 1983 ARE, WE BELIEVE, CONSERVATIVE AND IN KEEPING WITH THE DESIRE OF THE CONGRESS TO KEEP FEDERAL EXPENDITURES TO A MINIMUM. IN CONCLUSION, YOUR COMMITTEE HAS ALWAYS BEEN CONSIDERATE AND RESPONSIVE TO OUR NEEDS. WE ARE MOST GRATEFUL. WE LOOK FORWARD TO WORKING WITH YOU IN YOUR CONSIDERATION OF OUR REQUESTS FOR 1983.

JOINT STATEMENT OF THE CHIEF JUSTICE AND THE ATTORNEY GENERAL BEFORE THE JUDICIAL CONFERENCE OF THE U.S., MARCH 11, 1982

The provisions of adequate security services to all the participants in the federal judicial system, most especially the Judiciary itself, is a critical element in the relationship between the Department of Justice and the Federal Courts. If we cannot ensure the safety of all participants in the judicial process, we cannot maintain the integrity of the system, we cannot - in sum - "establish justice," as mandated in the preamble to the Constitution of the United States.

This has not been an easy task in recent years, nor will it be a simple matter to accomplish in the future. The Department of Justice, and more specifically, the United States Marshals Service, is the agency vested with responsibility for the provision of court security services. In this time of fiscal austerity, both have been faced with budget reductions, funding uncertainties and reductions-in-force which have made the continued maintenance of security support at the levels sought by the Judiciary very difficult. Further, the fragmentation of responsibility between the United States Marshals (USMS) - responsible for court security - and General Services Administration (GSA) and the Postal Service - responsible for general facility and perimeter security - has made it difficult to orchestrate a concerted response to judicial needs. Finally, the use of contract guards by the General Services Administration - outside the control of the USMS - has only served to exacerbate judicial concern.

At the same time, the needs of the Judiciary as perceived by both the Judiciary and the United States Marshals have risen dramatically. This rise is due to the increase in the number of judges, the increase in the number of cases combined with the increasingly complex and sensitive nature of the cases and the people involved.

If we are to solve this problem, it will only be through mutual understanding of the difficulties we face and agreement - by all participants in the judicial system - to work together in resolving those difficulties. To that end, we have agreed to effect the following actions:

- The United States Marshals Service, in general, and each individual United States Marshal in each district, will assume primary responsibility and authority for the provision of security services to the judiciary, as required. The Judiciary in each district will, therefore, have a single individual to whom it can look for all judicial security matters. To this end, the Attorney General is seeking an appropriate delegation of authority from the Administrator of the General Services Administration.

- In the short-term, the Attorney General, to the extent possible, will seek additional funding for court security including reallocating resources within the United States Marshals Service to return court security resources to the levels existing in FY 1979.

- We have adopted the recommendations of the Attorney General's Task Force on Court Security and will begin their implementation as rapidly as possible. The recommendations provide a reasoned and rational methodology for the provision of the security services in the courtroom, as well as general recommendations for the development of a comprehensive system of court security. These recommendations require the active involvement of all participants in the judicial system during the implementation phase if they are to be successfully utilized. We have, therefore, committed the full and active involvement of our respective organizations in this effort.

- Finally, the Chief Justice will recommend approval of the proposed amendments to Rule 4 (c) and (d) of the Federal Rules of Civil Procedure and encourage the adoption of local rules to relieve the United States Marshals from the responsibility to serve private civil process by the use of alternative methods of serving process. The Attorney General will continue to seek legislation to facilitate the development of such alternative methods, to compensate the government fully for process served, and to reduce the statutory obligation to serve most private civil process. As resources are saved by this action, they may, if appropriate be reallocated to the court security function on the basis of the experience we gain in implementing the recommendations of the Court Security Task Force.

While these actions should not be seen as a panacea, they do represent what we believe to be a useful beginning to the resolution of a critical problem. We seek the continued support of all participants in the judicial system in their implementation.

COMPARATIVE WORKLOAD DATA
FISCAL YEARS 1976 AND 1981

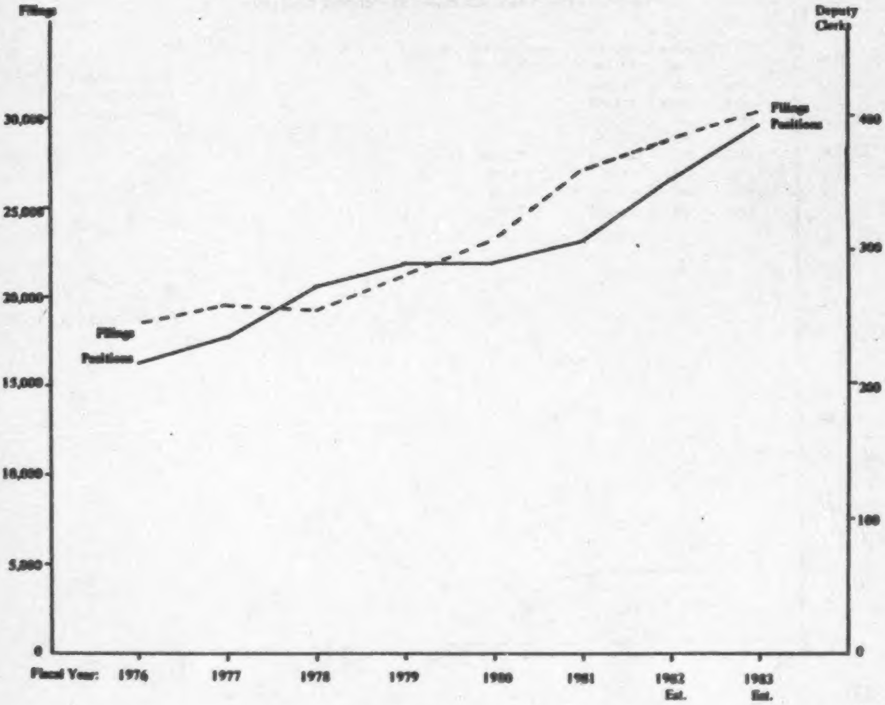
	F.Y. 1976*	F.Y. 1981	% Change
COURTS OF APPEALS:			
Filings	18,408	27,156	+47.5%
Terminations	16,426	26,010	+58.4%
Pending, End of Year	14,110	22,194	+57.3%
DISTRICT COURTS:			
Civil Cases			
Filed	130,597	185,622	+42.1%
Terminated	110,175	180,833	+64.1%
Pending, End of Year	140,189	195,460	+39.4%
Criminal Cases			
Filed	41,020	31,280	-23.7%
Terminated	43,675	29,705	-32.0%
Pending, End of Year	19,756	16,387	-17.1%
Totals			
Filed	171,617	216,902	+26.4%
Terminated	153,850	210,538	+36.8%
Pending, End of Year	159,945	211,847	+32.4%
BANKRUPTCY ESTATES:			
Filed	246,549	521,637	+111.6%
Terminated	237,793	357,036	+50.2%
Pending, End of Year	271,039	653,446	+141.1%
Adversary Proceedings**	.....	104,848	.....
MAGISTRATES:			
Trial Jurisdiction Cases (Misdemeanors)	90,166	95,152*	+ 5.5%
Preliminary Criminal Proceedings	86,084	67,624*	-21.4%
Other Criminal and Civil Matters	75,894	150,168*	+97.9%
PROBATION:			
Persons Received for Supervision	35,102	29,192	-16.8%
Persons Under Supervision, End of Year	64,246	58,494	- 9.0%
Presentence Investigations	32,193	25,782	-20.0%
Other Investigations	70,141	88,832	+26.7%
Petitions for Naturalization	129,317	144,019*	+11.4%
Aliens Naturalized	115,946	159,962*	+38.0%

*Data for the year ended June 30.

**No adversary proceedings filed prior to fiscal year 1980.

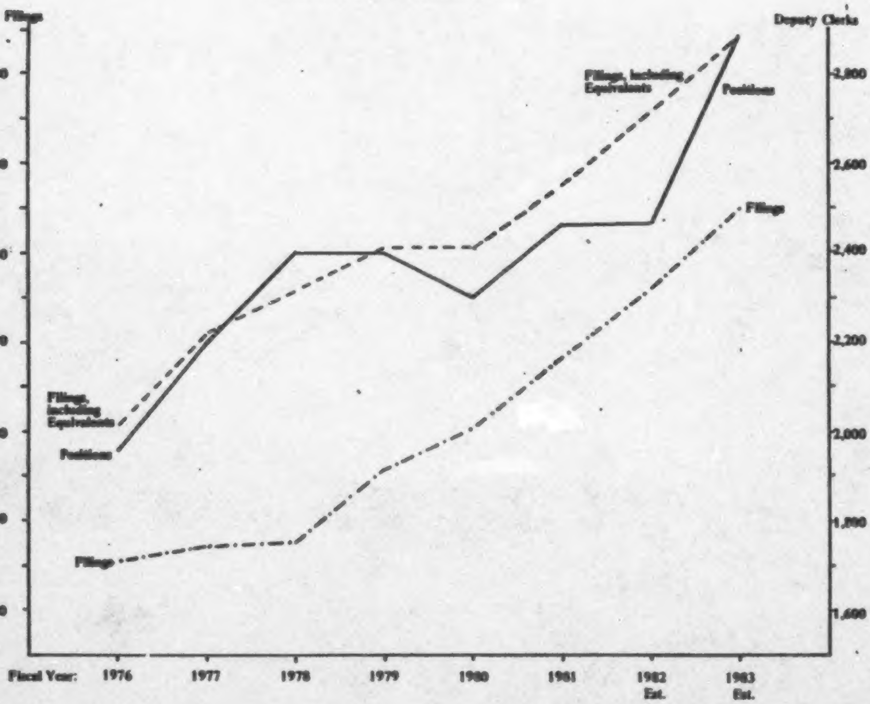
COURTS OF APPEALS

FILINGS AND DEPUTY CLERK POSITIONS



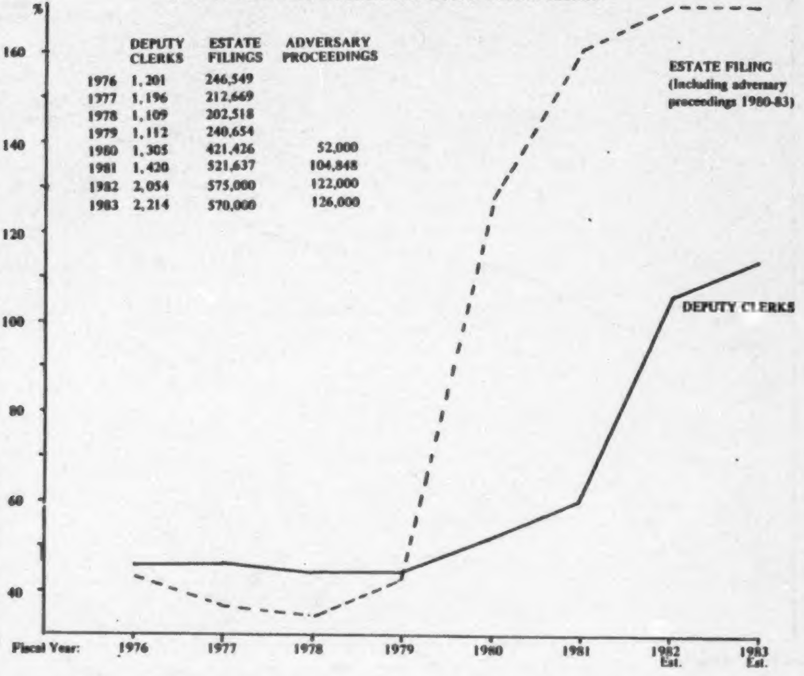
DISTRICT COURTS

FILINGS AND DEPUTY CLERK POSITIONS



BANKRUPTCY COURTS

PERCENT CUMULATIVE CHANGE FROM PREVIOUS YEARS ESTATE FILING (INCLUDING ADVERSARY PROCEEDINGS) AND DEPUTY CLERKS

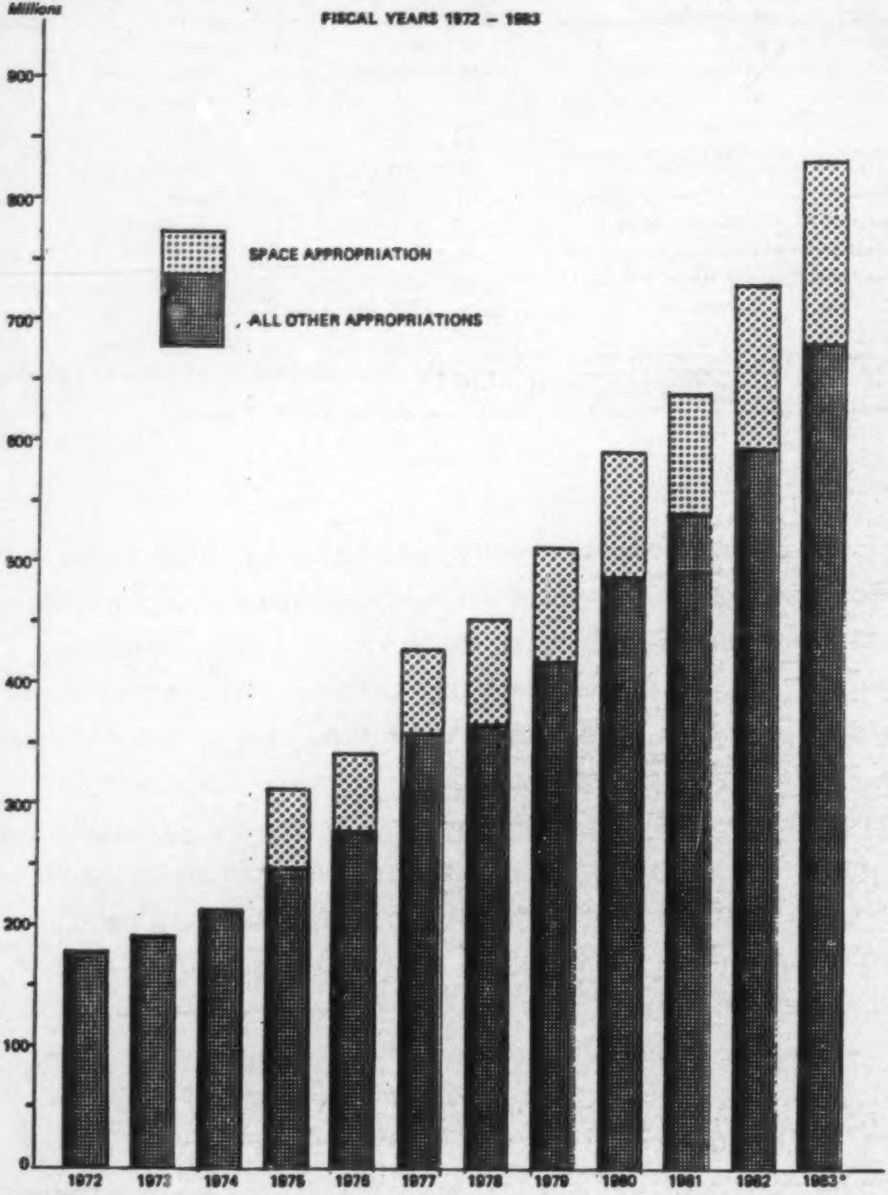


	DEPUTY CLERKS	ESTATE FILINGS	ADVERSARY PROCEEDINGS
1976	1,201	246,549	
1977	1,196	212,669	
1978	1,109	202,518	
1979	1,112	240,654	
1980	1,305	421,426	52,000
1981	1,420	521,637	104,848
1982	2,054	575,000	122,000
1983	2,214	570,000	126,000

THE JUDICIARY

APPROPRIATIONS

FISCAL YEARS 1972 – 1983



*Budget Request

BUDGET ADJUSTMENTS FOR FISCAL YEAR 1983
(Dollar amounts in thousands)

Appropriation	Request Pending		Revised Request		Difference	
	Perm. Pos.	Amount	Perm. Pos.	Amount	Perm. Pos.	Amount
Salaries of Judges.........................	647	$ 63,500	647	$ 63,500	...	$ .....
Salaries of Supporting Personnel..........	11,013	300,650	10,924	298,900	-89	-1,750[1]
Defender Services..........................	312	34,180	312	34,180	...	.....
Fees of Jurors and Commissioners...........	...	48,000	...	48,000	...	.....
Expenses of Operation and Maintenance of the Courts...............................	...	71,088	...	67,563	...	-3,525[2]
Bankruptcy Courts, Salaries and Expenses..	2,701	95,500	2,701	94,720	...	-780[3]
Services for Drug Dependent Offenders.....	...	4,500	...	4,500	...	.....
Space and Facilities.......................	...	160,182	...	159,762	...	-420[4]
Special Rail Reorganization Court.........	41	.....	41	.....	...	.....
TOTAL....................	14,714	$777,600	14,625	$771,125	-89	$-6,475

[1] Revised workload projection for the Probation Service.
[2] Inflation rate adjustments ($-2,520), expenses associated with reduced number of Probation Service positions ($-580), and net change in cost of lawbooks ($-425).
[3] Inflation rate adjustment.
[4] Space and furniture costs associated with reduced number of Probation Service positions.

STATEMENT OF WILLIAM E. FOLEY

I WISH TO THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE IN SUPPORT OF THE BUDGETARY REQUESTS I HAVE MADE FOR THE ADMINISTRATIVE OFFICE FOR FISCAL YEAR 1983. OUR BUDGET ESTIMATE FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1983, IS IN THE AMOUNT OF $25,500,000, WHICH INCLUDES A TRANSFER OF $241,000 AND 6 POSITIONS FROM THE FEDERAL JUDICIAL CENTER. EXCLUDING THIS TRANSFER AND OTHER ADJUSTMENTS TO THE BASE, WE ARE REQUESTING AN INCREASE OF $2,491,000 AND 12 NEW POSITIONS. OUR BUDGET JUSTIFICATIONS SUBMITTED TO YOUR COMMITTEE DESCRIBE IN DETAIL THE PURPOSE FOR WHICH THE ADDITIONAL FUNDS AND PERSONNEL ARE BEING REQUESTED AND HOW THEY WILL BE ALLOCATED AMONG THE DIFFERENT FUNCTIONS AND ORGANIZATIONAL UNITS OF THE ADMINISTRATIVE OFFICE.

MR. CHAIRMAN, AS IN RECENT YEARS THE BUDGET REQUEST FOR THE ADMINISTRATIVE OFFICE IS RELATIVELY CONSERVATIVE, REFLECTING OUR EFFORTS TO LIMIT PERSONNEL INCREASES BY ASSIGNING NEW RESPONSIBILITIES TO EXISTING PERSONNEL. WE ARE, HOWEVER, SIGNIFICANTLY EXPANDING OUR INVESTMENT IN AUTOMATING THE COURTS BY EXPANDING COURTRAN SERVICES, DECENTRALIZING THE ACCOUNTING AND STATISTICAL SYSTEMS, AND AUTOMATING BANKRUPTCY NOTICES. WE EXPECT AUTOMATION WILL GREATLY IMPROVE THE MANNER IN WHICH THE COURTS SERVICE THE LEGAL COMMUNITY, AND IN SOME CASES AUTOMATION MAY ACTUALLY REDUCE

OPERATING COSTS. WE FIRMLY BELIEVE THAT THE NATION'S COURTS CANNOT BE LEFT BEHIND DURING AN ERA WHEN TECHNOLOGY IS BRINGING PROFOUND CHANGE TO SO MANY SECTORS OF OUR COUNTRY AND GOVERNMENT.

CONSEQUENTLY, AN IMPORTANT ELEMENT OF THIS APPROPRIATION REQUEST IS THE SECOND PHASE OF THE TRANSFER OF FUNDS AND POSITIONS MENTIONED ABOVE FROM THE FEDERAL JUDICIAL CENTER TO THE ADMINISTRATIVE OFFICE BUDGET IN SUPPORT OF THE OPERATIONAL COURTRAN SYSTEMS. AS YOU ARE AWARE, THE FIRST PHASE OF THIS TRANSFER WAS ACCOMPLISHED IN THE CURRENT FISCAL YEAR AS APPROVED BY THE CONGRESS. IN 1983, RESPONSIBILITY FOR THE SOFTWARE MAINTENANCE AND EXPANSION TO ADDITIONAL COURTS OF THE SIX MAJOR COURTRAN APPLICATIONS WILL BE ASSUMED BY THE ADMINISTRATIVE OFFICE.

I BELIEVE THAT THE PROCESS OF TRANSFERRING THE COURTRAN SYSTEM IS FUNCTIONING SMOOTHLY, WHICH IS A REFLECTION OF THE HIGH LEVEL OF COOPERATION WHICH EXISTS BETWEEN OUR RESPECTIVE AGENCIES. ALTHOUGH THE ADMINISTRATIVE OFFICE WILL OPERATE THE COURTRAN SYSTEM AS RECEIVED FROM THE JUDICIAL CENTER, WE WILL CONTINUE TO LOOK TO THE CENTER FOR THE DEVELOPMENT OF NEW COMPUTER APPLICATIONS.

MR. CHAIRMAN, LAST YEAR THE COMMITTEE DENIED 13 POSITIONS FOR THE ADMINISTRATIVE OFFICE BUT INDICATED IT WOULD CONSIDER A REPROGRAMMING REQUEST TO ESTABLISH SOME OF THE POSITIONS IF THERE WERE CHANGES IN WORKLOAD OR PRIORITIES. THE ADMINISTRATIVE OFFICE HAS REVIEWED THE STAFFING SITUATION VERY CLOSELY AND SUBMITTED A REPROGRAMMING REQUEST TO YOUR COMMITTEE TO ESTABLISH 6 OF THE 13 POSITIONS REQUESTED IN THE FISCAL YEAR 1982 BUDGET. THE ADMINISTRATIVE OFFICE CONSIDERS THESE POSITIONS CRITICAL IN MEETING ITS RESPONSIBILITIES IN SUPPORT OF COURT OPERATIONS.

IN ADDITION, YOUR COMMITTEE QUESTIONED THE NEED FOR THE ADMINISTRATIVE OFFICE TO CONTINUE TO COLLECT AND REPORT SOME

STATISTICS THAT MIGHT BE VERY MARGINAL IN VALUE. IN THIS REGARD, THE JUDICIAL CONFERENCE SUBCOMMITTEE ON JUDICIAL STATISTICS APPROVED A RECOMMENDATION TO HAVE THE ADMINISTRATIVE OFFICE, STATISTICAL ANALYSIS AND REPORTS DIVISION, CONDUCT A THOROUGH REVIEW OF ALL DATA NOW COLLECTED AND EACH REPORT CURRENTLY ISSUED. EACH DATA ELEMENT OF ALL REPORTS WILL BE EXAMINED TO DETERMINE ITS ORIGIN, THE CURRENT USEFULNESS OF THE DATA, AND THE AUTHORITY OR REQUIREMENT TO COLLECT IT. PERIODIC REPORTS WILL BE MADE TO THAT SUBCOMMITTEE FOR DELETION OF DATA ELEMENTS, ELIMINATION OF ENTIRE REPORTS OR POSSIBLE ADDITIONS WHERE NECESSARY. THIS WILL BE A CONTINUING PROJECT BUT THE SUBCOMMITTEE, AT ITS SPRING MEETING, WILL PREPARE A STATUS REPORT FOR THE JUDICIAL CONFERENCE. WE WILL KEEP YOUR COMMITTEE INFORMED ON OUR PROGRESS IN THIS AREA.

OUR REQUEST INCLUDES 10 POSITIONS AND $1,329,000 TO AUTOMATE BANKRUPTCY NOTICES AND CLAIMS AND $1,067,000 TO EXPAND AUTOMATED SYSTEMS IN THE COURTS OF APPEALS AND DISTRICT COURTS.

FUNDING FOR THE BANKRUPTCY NOTICING AND CLAIMS FUNCTION IS BEING REQUESTED FOLLOWING A STUDY WE MADE AT THE REQUEST OF YOUR COMMITTEE TO EXAMINE AND REPORT BACK OUR FINDINGS ON THE CURRENT PILOT PROJECT THAT IS IN OPERATION IN THE BANKRUPTCY COURT IN NEW JERSEY. THE REPORT HAS BEEN FILED WITH THE STAFF OF THIS COMMITTEE, AND SUPPORTS THE COST EFFECTIVENESS OF THIS SYSTEM AND ITS OPERATION ON GOVERNMENT-OWNED COMPUTERS RATHER THAN CONTRACTING FOR THE SERVICE. THE OPERATION OF THIS SYSTEM WILL REQUIRE 6 TECHNICAL PERSONNEL AND 4 PERSONNEL TO OPERATE A CENTRALIZED NOTICE, PRINTING AND DISTRIBUTION FACILITY.

THE NEW BANKRUPTCY NOTICING SYSTEM, WHICH WE PLAN TO EXPAND TO 20 COURTS, HAS BEEN TESTED AND HAS BEEN FULLY OPERATIONAL ON A CONTRACTUAL BASIS FOR THE PAST YEAR IN THE DISTRICT OF NEW JERSEY. DURING THIS YEAR, THE PILOT COURT EXPERIENCED A 100 PERCENT INCREASE IN NOTICING AND WAS ABLE TO ABSORB THE INCREASE

IN WORKLOAD AND ELIMINATE ITS BACKLOG WITH ONLY A SMALL INCREASE IN PERSONNEL. OUR CURRENT PLAN IS THEREFORE TO DEVELOP AN IN-HOUSE CAPABILITY OF PROVIDING THE BANKRUPTCY NOTICING FUNCTION TO 20 BANKRUPTCY COURTS IN FISCAL YEAR 1983. THE ADMINISTRATIVE OFFICE IS IN THE PROCESS OF TRANSFERRING THE NEW JERSEY COURT NOTICING FUNCTION FROM THE CONTRACTOR TO THE ADMINISTRATIVE OFFICE SYSTEM. LATER THIS YEAR, THE ADMINISTRATIVE OFFICE WILL LEASE THE EQUIPMENT NECESSARY TO IMPLEMENT THE SYSTEM AND TEST ITS OPERATION IN THE BANKRUPTCY COURT IN LEXINGTON, KENTUCKY. THE EXTENSION OF THE SYSTEM TO 20 COURTS WILL BE ACCOMPLISHED BY THE END OF FISCAL YEAR 1983. AS OUR REPORT TO YOUR COMMITTEE INDICATES, IT IS ESTIMATED THAT THE AUTOMATION OF BANKRUPTCY NOTICING WILL ELIMINATE THE NEED FOR APPROXIMATELY 120 DEPUTY CLERKS AND REDUCE OPERATING COSTS BY APPROXIMATELY $1 MILLION ONCE THE SYSTEM IS FULLY OPERATIONAL IN ALL 20 COURTS. THESE ESTIMATES ARE BASED ON THE ASSUMPTION THAT BANKRUPTCY CASELOAD REMAINS THE SAME. IF THE CASELOAD CONTINUES TO RISE, THE REDUCTION IN DEPUTY CLERKS WOULD BE CORRESPONDINGLY LESS.

THE REMAINING TWO POSITIONS ARE NECESSARY TO SUPPORT THE OPERATION OF THE DRUG AFTERCARE PROGRAM. THIS NATIONWIDE PROGRAM IS CURRENTLY HANDLED BY ONE POSITION ON THE STAFF OF THE PROBATION DIVISION. FOUR DISTINCT FUNCTIONS ARE HANDLED UNDER THE PROGRAM: (1) CONTRACTING FOR DRUG AFTERCARE TREATMENT SERVICES, (2) MAINTAINING QUALITY CONTROLS FOR SUPERVISION OF ALL DRUG DEPENDENT FEDERAL PROBATIONERS AND PAROLEES -- WHETHER RECEIVING CONTRACT SERVICES OR NOT, (3) CONTRACTING FOR A NATIONAL URINALYSIS PROGRAM TO DETECT DRUG ABUSE BY FEDERAL OFFENDERS, AND (4) PERFORMING AN EVALUATION OF THE PROGRAM WITH THE ASSISTANCE OF THE FEDERAL JUDICIAL CENTER. ONE PERSON CANNOT PERFORM ALL THE WORK INVOLVED. FOR EXAMPLE, MAINTAINING ADEQUATE CONTRACT MONITORING AND COMPLIANCE IN THE URINALYSIS PROGRAM IS A FULL-TIME JOB.

AS BRIEFLY MENTIONED ABOVE, THE BUDGET INCLUDES $1,067,000 TO EXPAND AUTOMATED SYSTEMS IN THE COURTS OF APPEALS AND DISTRICT COURTS. OF THIS AMOUNT, $64,000 IS REQUESTED TO ASSIST THE FEDERAL JUDICIAL CENTER IN THE DESIGN, DEVELOPMENT, TESTING AND PILOT OPERATION OF THE PROBATION INFORMATION MANAGEMENT SYSTEM (PIMS). IF THE STUDY OF THE SYSTEM WHICH IS CURRENTLY UNDER WAY SHOWS THE SYSTEM TO BE COST EFFECTIVE, THIS STEP MUST BE TAKEN IN 1983 IF WE ARE TO MAINTAIN OUR SCHEDULE TO EXPAND PIMS AS AN OPERATIONAL SYSTEM IN FISCAL YEAR 1984.

THE SUM OF $579,000 IS REQUESTED TO CENTRALIZE ACCOUNTING FOR 30 DISTRICT AND BANKRUPTCY COURTS. THIS REQUEST IS THE RESULT OF A PILOT PROJECT DEVELOPED FOR THE DISTRICT COURT IN CENTRAL CALIFORNIA. THE SYSTEM HAS BEEN IN OPERATION IN THAT COURT FOR OVER A YEAR. THE JUDICIAL CENTER CONTRACTED WITH A PRIVATE ORGANIZATION TO PERFORM A COST-BENEFIT ANALYSIS OF THE SYSTEM, WHICH WAS COMPLETED IN LATE 1981 AND WHICH FOUND THAT THE SYSTEM WAS COST EFFECTIVE. THE PILOT PROJECT WILL BE EXPANDED THIS YEAR TO INCLUDE THE BANKRUPTCY COURT IN LOS ANGELES AND THE DISTRICT COURT IN THE DISTRICT OF COLUMBIA. THIS SYSTEM, OPERATING IN 30 COURTS, WILL RESULT IN A MAJOR STEP TOWARD AN INTEGRATED AND STANDARDIZED FINANCIAL MANAGEMENT SYSTEM FOR THE JUDICIARY.

DURING FISCAL YEAR 1983, THE ADMINISTRATIVE OFFICE WILL ASSUME RESPONSIBILITY FOR SUPPORTING PLANNED EXPANSION OF COURTRAN. THE AMOUNT OF $358,000 IS REQUESTED FOR THE PROJECTED EXPANSION OF COURTRAN CASE MANAGEMENT APPLICATIONS IN THE COURTS. THE TABLE ON PAGE 14.15 OF THE BUDGET JUSTIFICATION SHOWS THE NUMBER OF SYSTEMS IN PLACE IN THE COURTS AND THE REQUESTED EXPANSION.

FINALLY, WE ARE REQUESTING $66,000 TO SUPPORT THE PLACEMENT OF TERMINALS AND PRINTERS IN COURTS THAT CURRENTLY HAVE NO AUTOMATED SUPPORT, AND WHICH WILL NOT BE UNDER COURTRAN EXPANSION. THIS WILL PROVIDE THESE COURTS WITH A NETWORK WHICH WILL PERMIT THE CAPTURE OF ALMOST ALL OF OUR STATISTICAL DATA AT ITS SOURCE, ELIMINATING DOUBLE ENTRY OF INFORMATION, ONCE AT THE COURT AND ONCE AT THE ADMINISTRATIVE OFFICE WHICH WILL COMPLEMENT THE COLLECTION OF STATISTICS UNDER COURTRAN. IN ADDITION TO CAPTURING THE BULK OF JUDICIAL STATISTICS, THIS EXPANDED NETWORK WILL PROVIDE THE OPPORTUNITY TO OFFER A NUMBER OF AUTOMATED SERVICES TO THE COURTS, SUCH AS REQUISITION MONITORING, TIME AND ATTENDANCE REPORTING, PROPERTY INVENTORY AND CORRESPONDENCE MANAGEMENT.

MR. CHAIRMAN, THANK YOU FOR PERMITTING ME TO SET FORTH AND EXPLAIN OUR REQUIREMENTS FOR 1983. FOR THE MOST PART, OUR PROGRAM REQUESTS ARE ASSOCIATED WITH THE EXPANSION OF PROVEN AUTOMATION TECHNIQUES DIRECTED AT IMPROVING THE OPERATIONS OF THE COURTS. WHILE ACHIEVING SOME COST SAVINGS, WE ANTICIPATE THAT THIS INVESTMENT IN AUTOMATION WILL CONTINUE IN FUTURE YEARS. WE FEEL THE COURTS ARE ONLY BEGINNING TO ADVANCE IN THE TECHNOLOGIES THAT HAVE BEEN AVAILABLE FOR SOME TIME. IN CLOSING, I STRESS THAT WHILE A MAJORITY OF THESE INCREASED EXPENDITURES ARE REFLECTED IN THE ADMINISTRATIVE OFFICE BUDGET, THE PRIMARY BENEFICIARIES OF THIS EFFORT WILL BE THE FEDERAL COURTS.

REDUCTIONS IN BUDGET REQUEST

Senator WEICKER. Senator?

Senator COCHRAN. Judge Clark, it is always a great pleasure to see you. I recall last year your appearing before the committee with a larger number of colleagues. Obviously they think that they have a good representative in you for all of the District Courts and the Courts of Appeals throughout the country. I certainly agree with them. They couldn't have chosen a finer person to be involved in presenting this budget request to the Senate committee.

Happily, we are observing a reduction in the request because of the rate of inflation. We hope that this trend can continue and we can see improvement in the inflation situation so that we can cut down these projected costs that have been traditionally incurred because of those continued high rates.

COURT SECURITY

I recall your mentioning one effort that is being made and is reflected in the budget request, to provide funds for courtroom security, that there is a modification of the arrangement that has been made. Could you tell us about that and how that will have an impact in this budget request?

Judge CLARK. Yes, Senator. It will have no financial impact on the total appropriation needed for the two requests, for the Justice Department and the judiciary. But for several years there has been such a deterioration in the quality of security provided to the courts that the Chief Justice and the Attorney General have become concerned, and the Judicial Conference has requested the Chief Justice to investigate the problem.

As a result, there has been a series of meetings between the Attorney General and the Chief Justice, and they have conceived a position paper which will allow the U.S. Marshals Service to take over the courtroom security.

Let me emphasize at the beginning of the discussion that I refer to the security of judges' chambers, courtrooms, witness rooms, the immediate protection of people involved in the judicial process, as opposed to what we call perimeter security. This is the traditional guard that would be placed at a desk at the entranceway to a building who would check general coming and going in the building. This will still remain a part of the GSA obligation as our landlord, to provide building security to the courts, as with any other tenant.

But the Chief Justice and the Attorney General have agreed that the U.S. Marshals Service will provide a coordinated security effort to the courtrooms, the witness rooms, chambers, and the immediate areas occupied by the judiciary.

The total cost for 1983 is projected to be $12 million. There will be no additional funds requested, however, since the Justice Department has agreed to concede $8 million of its existing U.S. marshals appropriation request for this purpose and since we have agreed to contribute $4 million out of a series of concessions from both the savings that we hope to make on the delays in delivery of space from GSA and a number of other items.

We have prepared a supplemental—excuse me; that word is a term of art—we have prepared documentation setting out the precise nature of this transfer, how the funds will be used, and I would like to submit it also for the record, if I may.

Senator COCHRAN. Thank you very much for providing that.

[The information follows:]

THE JUDICIARY
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES
COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas; $12,000,000, to be available for transfer to the United States Marshals Service which shall be responsible for administering this element of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

Request pending	$ .....
Program amendment	12,000,000
Revised estimate	$12,000,000

Program and Financing

	1983 Request Pending	1983 Proposed Amendment	1983 Revised Request
Program by activities:			
Court security (costs-obligations)	$.....	$12,000,000	$12,000,000
Total program costs funded	.....	12,000,000	12,000,000
Financing:			
Budget authority	.....	12,000,000	12,000,000
Budget authority:			
Appropriation	.....	.....	.....
Transferred from other accounts*	.....	12,000,000	12,000,000
Appropriation (adjusted)	.....	12,000,000	12,000,000

*$8,000,000 from the Department of Justice appropriation "Salaries and Expenses, United States Attorneys and Marshals" under the heading "Legal Activities" and $4,000,000 from the Judiciary appropriation "Space and Facilities" under the heading "Courts of Appeals, District Courts, and Other Judicial Services."

Relation of obligations to outlays:			
Obligations incurred, net	.....	12,000,000	12,000,000
Obligated balance, start of year	.....	.....	.....
Obligated balance, end of year	.....	.....	.....
Outlays	.....	12,000,000	12,000,000

Analysis by Object

		1983 Request Pending	1983 Proposed Amendment	1983 Revised Request
25	Other services	$.....	$10,000,000	$10,000,000
31	Equipment	.....	2,000,000	2,000,000
	Total obligations	$.....	$12,000,000	$12,000,000

Justification

The current level of security in the courts has diminished to a point considered completely inadequate by the Judiciary as reflected in Judicial Conference reports. As a result, the Chief Justice and the Attorney General agreed upon a series of actions to be taken together to remedy this problem. One such action is the transfer of funds in the United States Marshals Service appropriation currently being utilized for payment of General Services Administration (GSA) contract guards to a Judiciary appropriation. The Judiciary will then assume responsibility for presenting its budgetary requirements for court security directly to the Congress. It is contemplated that the appropriation will be available for transfer to the Marshals Service which will administer the program.

Background

Since 1970, the Judiciary has sought the establishment of an effective security program throughout the United States court system. Funds were initially appropriated to GSA and the Marshals Service to provide guards for court facilities and to install security systems and equipment. However, budget reductions by the Office of Management and Budget (OMB) made it necessary for these agencies to reduce guard forces at buildings housing court personnel.

When the Federal Buildings Fund was instituted in July 1974, GSA reduced the number of guards it would provide under the new Standard Level User Charge. To maintain an adequate level of protection, the Judiciary in turn had to increase its expenditures for reimbursable guard service. In addition, the Marshals Service did not provide an adequate number of personnel to ensure the protection of the courts, nor was an adequate amount of security equipment purchased.

On July 27, 1976, the General Accounting Office published a report criticizing the performance of the Marshals Service in providing security to the courts. As a result of this report, an Interagency Study Group on Judicial Security was formed consisting of all the agencies involved in this function. The Study Group determined that GSA would be responsible for the security of the buildings housing the courts and the Marshals Service for the court facilities and personnel. As a result of security surveys conducted in selected courts, the Marshals Service was to adjust its 1980 budget request to include sufficient security personnel and funds. However, proposals to increase staffing in the Marshals Service to provide one Judicial Security Officer to each district judge, senior judge, and full-time magistrate, and to transfer positions from GSA to the Marshals Service, were rejected within the Executive Branch.

The Congress then approved the transfer of $7,000,000 from the Judiciary's "Space and Facilities" appropriation to the Department of Justice in 1980 with the understanding that the Marshals Service would assume full responsibility for court security. An appropriate number of positions was to be made available to the Marshals Service to carry out this responsibility. However, OMB did not grant an increase in the personnel ceiling for 1980 for this purpose, nor was a request for additional positions granted in 1981. Since the transfer of funds from the Judiciary and the shifting of responsibility for the court security program to the Marshals Service, overall security has diminished.

In July 1981, pursuant to a request from the Chief Justice, the Attorney General formed a Task Force on Court Security to study problems in this area. At the March 1982 meeting of the Judicial Conference, the Chief Justice and the Attorney General announced in a Joint Statement the results of an agreement between the Judiciary and the Department of Justice regarding provision of court security. The Attorney General has requested guard contracting authority for GSA buildings from the Administrator of GSA for the purpose of providing security and protective services in United States courtrooms and adjacent areas thereto. Upon receipt of that delegation, the Marshals Service proposes to assume the responsibility for contracting guard services and acquisition and maintenance of equipment to provide security to judicial personnel and proceedings in judicial facilities.

Request

To meet current judicial security requirements, the Marshals Service projects the need for the sum of $12,000,000 for fiscal year 1983. This amount is requested under a new appropriation account entitled "Court Security" under the control of the Judiciary and would be derived from funds currently requested by the Department of Justice and the Judiciary. The sum of $8,000,000 would represent a deduction from funds requested by the Department of Justice for the U.S. Marshals Service for 1983. The remaining $4,000,000 would be derived from funds included in the 1983 Judiciary budget request for "Space and Facilities" and would be available due to several factors: (1) $1,114,000 from standard level user charges (SLUC) as a result of delays in the delivery of space on order from GSA; (2) $694,000 due to a reduction in the SLUC rates for reduced security provided by GSA; (3) $388,000 from transportation of things, utilities, and other services as a result of a reduction in the anticipated inflation rate from 12 percent to 8 percent; (4) $538,000 from equipment as a result of a reduction in the anticipated inflation rate for furniture from 15 percent to 8 percent; (5) an additional $628,000 out of equipment will be absorbed through the deferral of some furniture purchases; and (6) $638,000 under other services for overtime reimbursable protective services. The requirement for overtime guard service has not materialized to the level previously expected.

The $12,000,000 requested will create a fund to be utilized specifically for judicial facility security in courtrooms and areas adjacent thereto. It will cover the cost of approximately 407 guard workyears and $2,000,000 for security equipment. If the request is approved, the Judiciary will enter into an agreement with the Marshals Service, whereby the Marshals Service will administer the contracts for security guards. It is noted that because the protective requirements of the Federal Judiciary are unique and of a more specialized nature than most other government agencies, the Marshals Service should be granted authority to contract with whatever organization is best staffed and equipped to meet the security needs of the courts. The Marshals Service will retain $278,000 of its current request for $8,278,000 to establish a contracting staff to prepare, negotiate, award, and administer guard contracts with the private sector. The cost of administering the program will be borne by the Department of Justice out of direct appropriations. The Judiciary will transfer funds or reimburse the Marshals Service for guard contracts and the procurement, installation, and maintenance of security systems. With control of the funds appropriated for court security, the Judiciary will determine, with the advice and counsel of the Marshals Service, the level of services required, and will seek increases or decreases in funding as necessary.

Judicial security guards must be of good and reliable character, as evidenced by a thorough background investigation; must be physically and mentally alert and responsive; must be capable of making sound judgments in routine and emergency situations; and must be in physical condition equivalent to that generally required of a law enforcement officer. They must successfully complete a course of training which includes, but is not limited to, general court organization and operations; Marshals Service organization and operations; general law enforcement and procedure, including laws of arrest, search and seizure, physical and technical security techniques and countermeasures; crowd control; emergency medical treatment and certification; explosives and fire suppression; firearms qualification; and physical stress training. On the job, the judicial security guard must demonstrate the ability to apply training and knowledge to the performance of duties, and must be able to independently perform these duties with a minimum of supervision.

In order to obtain guards with these qualifications, the Marshals Service proposes to write specific job requirements into contracts which will be released for bidding throughout the 94 judicial districts as needed. It is imperative that the contracts state that the Marshals Service, specifically each district U.S. Marshal, maintain control over the quality and nature of security services performed by contract guards. This includes the authority to deploy guards and direct their activities as necessary to perform the security mission. A single level of supervision within the contract guard force should be sufficient for the contractor to maintain quality control of performance on the part of personnel, and provide a single point of contact between the Marshals Service and the guard service. The Marshals Service needs flexibility in contracting authority to assure that the standards outlined herein are achieved. Regarding the authority of contract guards, the U.S. Marshal is the federal sheriff and has the power to appoint special deputies. The Marshals Service will authorize special on-premise deputations to convey law enforcement authority to the contract guards. This is in contrast with GSA, which does not have the authority to delegate these law enforcement powers to its contracted private guards.

The provision of adequate security services to all the participants in the federal judicial system, most especially the Judiciary itself, is a critical function. To quote from the Joint Statement of the Chief Justice and the Attorney General, "If we cannot ensure the safety of all participants in the judicial process, we cannot maintain the integrity of the system, we cannot - in sum - 'establish justice,' as mandated in the preamble to the Constitution of the United States."

SPACE AND FACILITIES

Request pending	$160,182,000
Program amendment	-4,000,000
Revised estimate	$156,182,000

Program and Financing

	1983 Request Pending	1983 Proposed Amendment	1983 Revised Request
Program by activities:			
Space and facilities	$143,431,000	$-2,817,000	$140,614,000
Furniture and furnishings, newly constructed and/or remodeled buildings	5,056,000	-307,000	4,749,000
Furniture and furnishings, other buildings	11,695,000	-876,000	10,819,000
Total program costs funded	160,182,000	-4,000,000	156,182,000
Financing:			
Budget authority	160,182,000	-4,000,000	156,182,000
Budget authority:			
Appropriation	160,182,000	.....	160,182,000
Transferred to other accounts*	.....	-4,000,000	-4,000,000
Appropriation (adjusted)	160,182,000	-4,000,000	156,182,000
Relation of obligations to outlays:			
Obligations incurred, net	160,182,000	-4,000,000	156,182,000
Obligated balance, start of year	16,633,000	.....	16,633,000
Obligated balance, end of year	-21,689,000	491,000	-21,198,000
Outlays	155,126,000	-3,509,000	151,617,000

*$4,000,000 to the appropriation "Court Security."

Analysis by Object

		1983 Request Pending	1983 Proposed Amendment	1983 Revised Request
22	Transportation of things	$ 473,000	$ -17,000	$ 456,000
23	Standard level user charges	130,676,000	-1,808,000	128,868,000
	Heating and air conditioning for off-duty hours	672,000	-24,000	648,000
25	Repairs and alterations	9,925,000	-347,000	9,578,000
	Reimbursable protective services	2,258,000	-638,000	1,620,000
31	Equipment	16,178,000	-1,166,000	15,012,000
	Total obligations	$160,182,000	$-4,000,000	$156,182,000

Justification

In order to establish a new appropriation account entitled "Court Security" in fiscal year 1983, it is requested that $4,000,000 be transferred from "Space and Facilities." The details related to the amount to be transferred are discussed in the justification for the appropriation "Court Security."

COMPUTERIZATION OF BANKRUPTCY NOTICING

Judge CLARK. Suffice it to say there are no new funds requested, and this service will be provided to the courts. We look forward to alleviating the security problem without any cost to the Government.

Senator COCHRAN. In your statement, you include some comments about the impact that the high level of bankruptcy filings has had on the court and its capacity to handle this workload. There was some discussion last year about computerization of bankruptcy notices and claims. Is there a specific request for funding of that computer program since now the judiciary has filed a report on its findings of feasibility?

Judge CLARK. Yes, sir. We have a report that—has that been placed in the committee's hands yet?

Senator COCHRAN. It has been filed with the committee, according to your statement.

Judge CLARK. All right, sir. The head of our computer department is here, Mr. John Allen. I would offer Mr. Allen for any particular questions.

I would call to the committee's attention that we are hopeful that we can realize a total savings of $2,879,400 by implementing this program in 20 districts. The Bankruptcy Act requires, as you Senators know, quite a number of notices. This noticing function is one that lends itself particularly well to automation. This is the reason we are able to achieve this sort of saving. Mr. Allen is here to answer any particular questions.

Senator COCHRAN. How much is all of this going to cost?

Mr. ALLEN. We are asking $1.3 million. We did ask for about $1.2 million last year to contract this service out. At that time the Congress asked us to go back and look at the expense of this vis-a-vis contracting and our putting it on a Government machine.

As a result of that, which is the study that has been filed, it indicated that based on the tremendously increased filings, if we continue to contract the services out at the 20-court level, it would be costing us approximately $6 million. If we brought it in-house and put it on our computer equipment, we would need approximately $1.3 million to provide the same level of service. So based on that, we are requesting now the $1.3 million to in fact bring this contracting support into our computer facility and provide this for at least 20 courts in fiscal year 1983.

Senator COCHRAN. Mr. Chairman, I don't have any other questions.

FREEZE ON DISCRETIONARY PROGRAMS

Senator WEICKER. Thank you, Senator.

As you are aware, last week the Senate Budget Committee agreed to a compromise level for the fiscal 1983 budget which would essentially freeze all discretionary programs at the 1982 level. Could you tell me what the impact on the judicial system would be if you were held to the 1982 level?

Judge CLARK. I think it would be disastrous, Senator Weicker. We don't have discretionary programs as such. The judiciary is a service organization. It is an open-end service organization. The Congress fixes our jurisdiction and the litigants who use that jurisdiction fix the level of services we will render. So the things that the courts have done in the way of increasing staff and increasing facilities have only been measures to meet the demands that the Congress and the litigants that use the court system have put on the system.

It is not a question, such as comes up with some agencies, that we could elect to go into a new field or start a new adventure. It is a question of simply meeting the demand for services that we must render to stay in business.

I don't mean to sound uncooperative, because we are, we wish to be. We have some pretty intensive review plans within the judicial makeup so that programs don't get to be luxurious items and so judges don't overspend and overstaff. The Administrative Office keeps a tight rein on the funds that we are allotted and on the programs that the Judicial Conference of the United States authorizes be undertaken. But they are not discretionary programs. They are programs that are needed to meet the delivery of services that we are required to render.

It is also hard to say that the last case filed in the court is the least important. It may be one of the most important cases you have. If we are cut back to 1982 levels and an important case comes in in 1983, it may be the one that doesn't get serviced or doesn't get serviced promptly. If we don't get clerks in the bankruptcy area, we delay the delivery of the distribution of funds that have been accumulated by the Bankruptcy Court to creditors. If we don't get district clerks in the District Courts, filings are not handled promptly. Our jury management program would have to suffer. Our jury management and document management programs are all things we have been instructed by Congress to pay more attention to.

I don't know, it looks like we are sort of between a rock and a hard place. I think the judiciary budget we have submitted this time is as lean a budget as we can submit and still carry out the functions we have been assigned.

Senator WEICKER. Maybe if Congress has its way, as I have seen the activity on the floor of the U.S. Senate in the past year, maybe you will have a lot less to do. Your functions are being taken over by the Senate of the United States. [Laughter.]

Judge CLARK. Those jurisdiction bills are pending, too. I don't know what they will amount to.

ADDITIONAL DEPUTY CLERK POSITIONS

Senator WEICKER. You have requested a total of 415 additional deputy clerk positions for the District Courts in 1982. Why do you need these positions?

Judge CLARK. Again, because case filings have gone up. We have perfected, in hopes we would have in place for the 1984 budget year, a work measurement formula which will even more accurately allot clerks' positions. But for this year we are still on what has been called for a number of years the 100-to-1 filing ratio. In other words, we have one deputy clerk allotted to a District Court for every 100 filings in that court. This is the formula we have used. Projected filings divided by 100 is the way that we have allotted clerks to the District Courts for the 1983 budget year.

REDUCING FILINGS IN THE COURTS

Senator WEICKER. Despite the increase in judgeships, it is noted on page 5 of your justifications that your pending civil and criminal cases have reached a record high of 211,847. Your civil caseload is now almost twice what it was 10 years ago.

Has the Judicial Conference addressed this problem; and what action, if any, would you recommend the Congress take to reduce filings and expedite the disposition of these cases?

Judge CLARK. I have not discussed this with Mr. Foley, and he may have different views. I wish he would express them if he does.

The reduction of jurisdiction is the answer to the overcrowded problems in Federal courts. We now have laws that allow people to come to us and complain that the speedometer on their car has been set back by the used car dealer. We now have a good small loan business in the Federal courts. Every time a lender gets in trouble, a borrower gets in trouble with a small loan, he can bring a case in Federal court, if the lender did not follow the disclosure form requirements that are in the Federal law. We have complete diversity jurisdiction. The lawyers love it. I for one think it is an affront to federalism. I don't think that the courts and the States in the fifth circuit are unable to handle business between residents and nonresidents with complete fairness. I know in fact they can do so.

This is about 10 percent of our court business. If Congress were to reduce the level of our jurisdiction to really significant Federal matters, then I think that we would have an ample force to handle it. But right now we are just inundated in filings, particularly in the bankruptcy area.

This Bankruptcy Act that Congress passed a few years ago has just been like the atom bomb, just a mushroom of filings. You have a graph on the statement that I gave to the committee this morning, and all of a sudden the line, when the new Bankruptcy Act comes in, the line for filings almost goes off the paper at the top of the page.

These are the things that cause us the problems. If we could winnow out some of the jurisdiction, some of the caseload that these increases in jurisdiction have placed on us, we would be in good shape. I don't think judges are ever popular, but I know that the Federal courts are certainly popular with litigants. Lawyers seem to want to go there and prefer that system any time they can get in.

CONCURRENT JURISDICTION

Senator COCHRAN. Can I ask one question on that subject?

Senator WEICKER. Certainly.

Senator COCHRAN. Do you find that prosecutors in the U.S. attorneys' offices prosecute cases under the Federal jurisdictional powers that could just as easily be handled by a State court's criminal procedure or process?

Judge CLARK. Senator, that was a situation that Judge Bell thought was wrong when he was Attorney General. He severely curtailed the number of prosecutions instituted in Federal courts. Bank robbery, interstate transportation of automobiles, where it was not part of some real widespread ring, where it was just simply an occasional theft and a trip across the State lines, all of these types of crimes that were particularly suited to local jurisdictions he left alone.

We have seen, though, since Attorney General Smith came in office, some increase in criminal filings. It has not been a dramatic increase. Attorney General Smith has not announced any reversal of the prior policy. But there is a definite increase in the number of criminal cases being filed.

So all I can tell you is that as of today, I have a feeling that it is less than it was, but it still does occur.

Senator COCHRAN. We had a provision in the Criminal Code that was considered briefly by the Senate in the last couple of weeks that would have made it the policy that in concurrent jurisdictional situations, the U.S. attorneys' offices would be encouraged to step aside and let the State courts prosecute those cases. I think that is a good idea, too. We do have an awful lot of overlapping jurisdiction in the criminal law area.

Judge CLARK. For a number of years the Department has had and the courts have enforced what is called a petite policy. If there is a State prosecution ongoing, there will not be a Federal prosecution started. As I say, Judge Bell took that a little further to say there wouldn't be a Federal prosecution initiated any time it was suitable for State prosecution.

Senator COCHRAN. Thank you, Mr. Chairman.

PROJECTION OF CRIMINAL FILINGS

Senator WEICKER. You indicate you anticipate an increase of 6 percent in criminal filings.

Mr. GARABEDIAN. That is approximately right, sir. In the criminal filings, we are projecting an increase of 8.7 percent from the 1981 level of 31,280 to 34,000.

Senator WEICKER. The Justice Department in its budget presentation gave no indication of any increases. Have you had any discussions with the Justice Department?

Mr. GARABEDIAN. We have had discussions with them. I am aware of the fact they projected no increase. On the other hand, our current filings through December 31, 1981 would clearly indicate there is an increase, despite their projections.

We do not, I must admit, rely very heavily on their projections. We are relying on actual experience to date.

Senator WEICKER. I think I would also be inclined to take your projection.

RESTORATION OF LAPSES

The salaries of judges appropriation includes an increase of $600,000 for the restoration of lapses resulting from judgeship vacancies. In previous years, the number of vacancies was quite high. For example, there were 65 vacancies at the end of last fiscal year.

How many judgeship vacancies are there at present and how many are you projecting for 1983?

Mr. GARABEDIAN. Mr. Chairman, at the present time we have 31 judgeship vacancies. We are projecting 30 vacancies in fiscal year 1983.

U.S. TRUSTEES

Senator WEICKER. The administration's fiscal year 1983 budget request does not include any funding for the U.S. trustees. If no funding is provided for the trustees, would the court assume the responsibility for administering bankruptcy cases?

Mr. GARABEDIAN. We amended the budget to include some additional positions to assume the role that is being performed or the functions that are being performed in non-U.S. trustee districts. There are 39 additional positions in our budget for that purpose.

If the Department of Justice is not provided with the funds to continue with the U.S. trustee program, we would have to assume what we consider to be normal functions as are currently provided in a non-U.S. trustee district.

Senator WEICKER. There are further questions I have to submit for response to the record.

INCREASE IN SPACE RENTAL

The $20 million which you mentioned in the way of increase in rent, it seems rather steep.

Judge CLARK. Yes, sir.

Senator WEICKER. Maybe you would like to explain it to me as it was explained by them.

Judge CLARK. The chart that is in the statement, Senator, may give you perhaps the most dramatic presentation. This is a bar graph that takes our budget over a 10-year period. It shows you when the legislation was first enacted to create this rent charge and how every year the amount of that charge has grown. It has grown proportionately more than our budget figures themselves. But in 1983 we anticipate a $20 million increase in rent for the same space that we now occupy.

The GSA claims, of course, this is all under the legislative requirement. The rent to us is supposed to be based upon comparable commercial space. So they make market surveys. They were making them once every 3 years. We were getting fairly slow increases. Now they make them yearly, and we have gotten a pretty dramatic increase because of that change in method. But it is still responding to the congressional requirement that it be based upon comparable charges in the commercial market.

Senator WEICKER. I have no further questions.

Senator COCHRAN. I have none either.

Judge CLARK. Thank you, Mr. Chairman. I appreciate very much the opportunity to be here.

Senator WEICKER. Thank you very much. It is always good to have you here.

Judge CLARK. We certainly appreciate the courtesy and the opportunity to appear before the committee. As I say, I am sorry that I can't take a more cooperative stance with regard to reducing our budget request, but we don't believe we are in a position to do it. It just won't work out from a dollars and cents point or any other way.

Thank you very much for the opportunity to appear.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. Thank you, Judge.

The questions previously mentioned will be inserted at this point.

[The following questions were not asked at the hearing but were submitted to the Administrative Office of the U.S. Courts for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

BUDGET PRIORITIES

Question: Which of these increase items do you consider to be the most crucial? That is, have you attempted to prioritize these requests in any way?

Answer: All of the requested increases are crucial to carrying out the responsibilities of the Judiciary. The Judicial Conference, which has the responsibility to approve the budget request for the Judiciary, did not attempt to prioritize the various line items included in our budget request.

COURT SECURITY

Question: The Committee has received a budget amendment regarding the establishment of a new appropriation account for "Court Security." The Department of Justice has not yet submitted a formal budget amendment regarding this issue. However, Deputy Attorney General Schmults has sent a letter supporting this proposal. Please describe this proposal briefly, including the funding for it.

Answer: During the past year, the Chief Justice, on behalf of the Judicial Conference, and the Attorney General have worked toward developing methods by which the Judiciary can be adequately protected while at the same time conserving the limited resources available to the Department of Justice to provide this function. The Judicial Conference approved the approach recommended by the Attorney General's Task Force on Court Security, March 1982. To implement that accord, the Department of Justice and the Judiciary have agreed to a transfer of funds which will create a new appropriation account in the Judiciary. This transfer of funds does not involve any request for additional funds beyond what was already requested by the Judiciary and the Department of Justice. This fund would be used to provide a comprehensive court security program within one agency, the United States Marshals Service. The Marshals Service would be accountable for a comprehensive program of court security provided by their own United States Marshals and Deputy Marshals and the contract services which they will control.

To meet current judicial security requirements, the Marshals Service projects the need for the sum of $12,000,000 for fiscal year 1983. This amount is requested under a new appropriation account entitled "Court Security" under the control of the Judiciary. The sum of $8,000,000 would be transferred from the Department of Justice appropriation "Salaries and Expenses, United States Attorneys and Marshals" and the remaining $4,000,000 from the Judiciary appropriation "Space and Facilities." If the request is approved, the Judiciary will enter into an agreement with the Marshals Service, whereby the Marshals Service will administer the contracts for security guards and acquire and maintain the necessary related security equipment. The Marshals Service will retain $278,000 of its current request for $8,278,000 to establish a contracting staff to prepare, negotiate, award, and administer guard contracts with the private sector. The Judiciary will transfer funds or reimburse the Marshals Service to administer the court security program. With control of the funds appropriated for court security, the Judiciary will determine, with the advice and counsel of the Marshals Service, the level of services required, and will assume responsibility for presenting its budgetary requirements for court security directly to the Congress.

Question: Are you satisfied that this proposal will provide an adequate level of security to the courts?

Answer: This proposal is the result of a joint effort between the Judiciary and the Department of Justice. In July 1981, pursuant to a request from the Chief Justice, the Attorney General formed a Task Force on Court Security to study problems in this area. The Task Force submitted its report in March 1982. At the March meeting of the Judicial Conference, the Chief Justice and the Attorney General announced in a Joint Statement (attached to Chief Judge Charles Clark's prepared statement) the results of an agreement between the Judiciary and the Department of Justice regarding provision of court security. Since this proposal is the product of considerable study and cooperation between the Judiciary and the Department of Justice, we are confident that this proposal will establish the foundation for an adequate level of security to the courts.

Question: Why do you believe that the Marshals Service is better able to provide contract security guards than is GSA?

Answer: Historically, GSA has been responsible for the security of the buildings housing the courts and the Marshals Service for the court facilities and personnel. As a result of the Joint Statement of the Chief Justice and Attorney General Before the Judicial Conference of the U.S., March 11, 1982, it was agreed that the Marshals Service in general and each individual United States Marshal in each district will assume primary responsibility and authority for the provision of security services to the Judiciary. The Judiciary in each district will therefore have a single individual to whom it can look for all security matters. Since U.S. Marshals are entrusted with providing protection to court officers, it is logical that they should coordinate the provision of security services to the Judiciary.

In addition, regarding the authority of contract guards, the U.S. Marshal is the federal sheriff and has the power to appoint special deputies. The Marshals Service will authorize special on-premise deputations to convey law enforcement authority to the contract guards. This is in contrast with GSA, which does not have the authority to delegate these law enforcement powers to its contracted private guards.

Question: Do you think that the proposed $12,000,000 funding level is sufficient to meet the courts' needs?

Answer: The proposed $12,000,000 funding level was determined by the Marshals Service based on its expertise in the provision of court security and its knowledge of security requirements throughout the court system. The proposed figure should improve the judicial security presently available. It will provide approximately 133 additional guard workyears and protection in 78 additional facilities above the 1982 expenditure level, plus funds for the acquisition, installation, and maintenance of security systems and equipment.

INCREASES IN CIVIL FILINGS

Question: The request for additional positions was justified in part because of increased workload resulting from the Department of Justice civil filings to recover overpayment of veterans' allowances and delinquent student loans. Have you held any discussions with the Department to ascertain whether or not prosecutorial policies in this area will remain unchanged?

Answer: We have discussed the situation with the Department of Justice, the Department of Education, and the Veterans Administration. Each has indicated that case filings related to student loans and veterans' overpayments will remain at least as high as in the past year. In fact, both the Department of Education and the Veterans Administration expect a continuing increase in case filings. Cases related to student loans are expected to increase at the same rate as in the past. However, the Veterans Administration has indicated that case filings related to overpayments of benefits will increase at a faster rate than in past years because of the recent computer automation of the collection process.

Question: Another area in which you have cited increasing workload is civil rights filings, particularly job discrimination cases. Do you foresee a continuing increase in this area?

Answer: Civil rights case filings have fluctuated over the last few years but the overall trend is an increasing one. In fiscal year 1981, civil rights filings rose by 22.3 percent with employment discrimination case filings rising by 27.7 percent. Based on the previous trend in civil rights cases we would expect these cases to continue to increase in the future but perhaps not at the 1981 rate. We certainly have no reason to expect a reduction in civil rights filings in the near future.

STAFFING RATIOS

Question: There is a request for 40 deputy clerks for courts of appeals at a cost of $682,000. This request is justified by the need to maintain a

staffing ratio of 75 appellate filings per deputy clerk. During the current year the ratio is 82 filings per clerk. What does the workload of 82 filings per clerk mean?

Answer: A ratio of 82 filings per deputy clerk in the courts of appeals means that some of the less pressing workload elements have been delayed. For example, most of the courts of appeals dispose of old records and catalog opinions on a periodic basis when staffing permits. This function has not been performed during fiscal year 1982 and needs to be performed during the next fiscal year. There are also delays in providing requested information to litigants and the public when the ratio of filings to deputy clerks significantly exceeds the 75/1 ratio. This is now occurring and this is not only delaying the providing of requested information to the litigants but also is causing delay in transmitting records back to the district court, thereby causing more workload for them.

Question: What impact does it have on the judicial system if the ratio of filings per clerk remains at the current level? In what way would the work of the courts be hampered?

Answer: If the ratio of filings to deputy clerks in district courts remains well above 100/1 and the ratio in courts of appeals remains well above 75/1, the courts will not be able to provide all of their service obligations to litigants and the public nor will the district courts be able to comply with GAO recommendations in the areas of jury management and calendar management. Unless the courts are provided with positions to improve their juror utilization, the courts will be unable to significantly reduce wasted juror costs and will be subject to jury challenges regarding the representativeness of the jury panels (which are both costly and time consuming). Similarly, unless the courts are provided with additional positions to improve their case management, desired improvements in the processing of cases through the federal courts will be delayed, which will result in delays to litigants seeking administration of justice. As backlogs increase, the added burdens on courts and clerks' offices increase geometrically not arithmetically, which in turn increases costs in the long run.

Question: Conversely, how would the overall judicial system benefit if you had the ideal staffing ratio?

Answer: If the district courts were provided with the proper number of positions, as requested, the result would be less backlog of cases and a faster disposition of cases through the courts, which is consistent with the goal and mission of the Judiciary, and the delays discussed above would not occur. In the recently completed work measurement study of district court clerks' offices, a compilation was made of required work to be done in the district courts. This required work included assisting the court in the rapid disposition of cases and also providing information and other services to litigants and attorneys who practice in the federal courts. Even though the requested positions are less than the positions which would be required under this recently approved work measurement study, the district courts will come closer to arriving at the level of positions which will enable them to discharge these responsibilities. As mentioned before, providing the ideal staffing ratio will enable the courts to improve their juror utilization, and thus save a significant amount of taxpayers' money.

BANKRUPTCY COURTS

Question: The 1983 request for the bankruptcy courts includes 176 positions. Why are so many being requested?

Answer: The fiscal year 1983 request for 176 positions includes the following: Two (2) full-time bankruptcy judges and staff (4 positions) approved by the Judicial Conference, ten (10) additional second law clerks for bankruptcy judges appointed to appellate panels in the First and Ninth Circuits pursuant to 28 U.S.C. 160, and 160 additional clerical personnel for bankruptcy courts. These 160 additional clerical positions are based on a modest projected increase in bankruptcy filings (3.6 percent). Since enactment of the Bankruptcy Reform Act, the volume of bankruptcy case filings has risen to unprecedented levels. This has adversely affected the ability of the bankruptcy court system to respond to the needs of the public in an efficient and expeditious manner. These additional positions are required to assure the continuance of timely processing and adjudication of bankruptcy cases.

Question: Do you anticipate that the number of bankruptcy filings will continue to increase at the same rate which we have experienced since the reform of the bankruptcy legislation?

Answer: We do not anticipate increases of the same magnitude as those experienced since implementation of the Bankruptcy Reform Act. Currently, bankruptcy filings are still increasing, but at a much slower pace than in 1981. It appears as though the numbers of estate filings are beginning to level off. Adversary proceedings (civil proceedings filed in bankruptcy cases) are on the other hand continuing to escalate. Our most recent data for fiscal year 1982 indicates that the number of adversary proceedings will exceed those in fiscal year 1981 by approximately 20.5 percent instead of the 16.4 percent originally forecasted. The rise in adversary proceedings has been matched by a growing complexity of a jurisdictional nature which requires additional personnel to accommodate the workload. The recent increase in corporate filings has been a significant contributing factor to this situation.

GSA CHARGES

Question: There are substantial increases, some in excess of 100 percent, for other components of the judicial system. Do you expect to receive an increase in rent from GSA? How much of an increase? How much of this increase is for existing space? How much for new personnel?

Answer: The total cost for rental of space in the Space and Facilities appropriation is expected to increase by $30.2 million. Over half of the increase ($19.5 million) is due to escalation in charges by GSA for existing space. The remainder of the increase relates to new or additional space ($7.3 million) and to new positions ($3.4 million).

Question: GSA has been slow in delivering space in the past. Has this space been made available to you yet?

Answer: In fiscal year 1982, we budgeted for a total of 10,622,485 square feet of space. Currently, GSA has delivered 10,525,329 square feet. Therefore, only about 97,000 square feet are undelivered at this time and we feel that most of this will be delivered by the end of the year. However, in prior years space delivery has been slow, especially for those projects that resulted from the Omnibus Judgeship Act. Most of these projects are very large (over $500,000 each) and require the approval of both the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works. After these two Committees' approval, GSA must place the project in its budget which also must be approved by the Congress. This process, plus the time GSA takes in preparing the prospectus for presentation to the Congress, has taken as long as two years. In some instances, because new buildings or building annexes are being constructed to accommodate the omnibus judges, the space for them will not be made available for occupancy until fiscal year 1985. This is some seven years after the positions were authorized by Public Law 95-486.

Question: Is it perhaps premature to request funding for space for new personnel prior to GSA locating all the space previously requested?

Answer: GSA should be able to provide small amounts of space in each of the courts that require additional personnel. In the past, the delays in the delivery of space have been for large amounts of space required for occupancy of new buildings and newly constructed or remodeled facilities.

QUESTIONS SUBMITTED BY SENATOR ERNEST F. HOLLINGS

BUDGET REDUCTIONS

Question: Throughout the Government we are in a period of retrenchment. Last year, the Senate cut its own budget by 10 percent and the Executive Branch has been drastically reduced. Meanwhile, the Judiciary grows to the extent that the 1983 requests are $101,408,000 over the total appropriations expected for 1982, or a growth of 13 percent. No one certainly wants to

impede the work of the courts, but given the overall budgetary climate, what consideration was given to restraining budget growth in the preparation of the 1983 estimates?

Answer: Every effort was made in the development of the 1983 estimates to restrain the growth of the budget, notwithstanding the continuing increases in the caseload of the courts and in the face of inflationary pressures. With respect to requests for additional supporting personnel, only the minimum number of positions have been approved by the Judicial Conference to meet the increased case filings and to more efficiently dispose of the caseload in the courts. For example, the Judicial Conference has taken a deliberately conservative policy in authorizing additional full-time magistrates, limiting such authorizations to those courts in which the workload and other factors create a compelling need for additional resources. Requests by the district courts for each magistrate position undergo a vigorous review. The Administrative Office prepares a survey report on each such request, which is reviewed by the district court, the circuit council, and the Magistrates Committee of the Judicial Conference. The decision of the Judicial Conference is made on the basis of the recommendations of these four levels of review. Similarly, the Conference has promulgated strict guidelines regarding allocation of magistrates' legal assistant positions.

With respect to the clerks' offices, the courts are attempting to eliminate the more mundane duties for which they have traditionally been responsible. For example, the passport application function has almost entirely been transferred from the federal district courts to the post offices, resulting in a reduction of about 80 deputy clerk positions ($2,000,000 in annual costs). The additional deputy clerks requested in fiscal year 1983 are based on the staffing ratio of 100 filings for each deputy clerk position together with the projected level of filings. Part of the large increase in case filings in the last two years has been in cases filed by the U.S. Government to recover defaulted student loans and overpayments of veterans' educational benefits. Recognizing that these cases do not require as much effort on the part of the clerk's office as most other cases, these cases are weighted at a ratio of 40 percent of an average case, and therefore less credit is given for these cases rather than requesting additional positions which we know would result in the overstaffing of clerks' offices.

With regard to positions requested for the development of the National Court Library System, it is intended that not only will the level of service to judges and the courts be improved and efficiency be increased, but also that the increases required for library accession and continuation material can be held to a minimum as existing lawbook resources become better managed.

Additional positions requested for 1983 for the Probation Service by the various districts were reviewed in detail and reduced based on the newly adopted work measurement formula and workload projections. In March 1982, this budget request was reduced from 219 to 130 positions as a result of updated workload projections.

In the bankruptcy courts, an additional 160 positions are requested based on a workload of 540,000 estate filings and the staffing formula resulting from the recent work measurement study. However, based on the previous formula of one deputy clerk for each 120 business bankruptcy petitions and one deputy clerk for each 240 non-business bankruptcy petitions, an additional 704 deputy clerks would have been required, which is 544 more positions than are currently requested.

In the area of space and facilities, a space utilization survey conducted at the direction of the Judicial Conference has resulted in the releasing of unneeded space in a number of locations. Release of additional space currently under study could result in additional savings. Also, the Judicial Conference has adopted space guidelines for official court reporters which allow less space than was previously authorized. As a result, savings will be realized through the release of space to the General Services Administration (GSA) or through transfer of excess space to other court functions, thus offsetting the need to obtain additional space.

Regarding the amount available for replacement and rehabilitation of furniture and furnishings in existing facilities, the Judiciary has held the 1983 request to the 1982 level and intends to absorb any increases in cost and to defer purchases as necessary.

The 1983 budget also includes a request for funds for several programs (expansion of automated systems in courts of appeals and district courts; Bankruptcy Noticing System) in the area of automated systems which are intended to increase the efficiency of the courts, and, where possible, to obviate the need for additional personnel. For example, the proposed Bankruptcy Noticing System, to be established in the Administrative Office to serve 20 large bankruptcy courts, is expected to reduce the number of deputy clerks that would otherwise be needed in the bankruptcy courts.

In summary, the Judiciary has made every effort to restrain the growth of the budget and yet provide adequate service to litigants and the public. In addition, it should be noted that prior to this hearing we were able to reduce our 1983 request by $3.3 million as a result of a reduction in the anticipated rate of inflation.

Question: How much of the increase budgeted for 1983 is required by statute and how much is due to workload increases?

Answer: Of the total increases now requested in the Judiciary budget for 1983 (exclusive of the Supreme Court), it is estimated that approximately 37 percent is required by statute and 45 percent is due to increases in workload. The remainder of the increase can be attributed to programs designed to increase efficiency in the courts and to obviate the need for additional personnel in subsequent budget requests. It should be noted that the Judiciary has the basic mission of serving the public and the Bar in dispensing equal justice under the law. The increases in our budgetary requirements are virtually uncontrollable as they reflect the impact of new legislation, increased filings, and inflation. Unlike Executive departments and agencies, we are not engaged in programs or activities which can administratively be discontinued, curtailed, or deferred. Although technically the supporting personnel of the courts and the expenses of operation and maintenance are not "required by law," to deny secretarial and legal assistance to the judges and other court personnel would essentially be denying them the tools they need to perform their judicial functions.

Question: What specific budgetary savings can the Judiciary demonstrate for 1983?

Answer: There are two main areas where the Judiciary is anticipating savings due to improved procedures; reduced wasted juror costs and additional Central Violations Bureau collections at reduced costs. In the jury area, the Administrative Office in coordination with the Federal Judicial Center has made a concerted effort to improve the juror utilization in those courts which have exhibited a high level of wasted juror costs. Efforts to date have produced an increased awareness of the potential savings in the usage of jurors and several courts have already indicated that steps are being taken to reduce juror costs. We are hopeful that there will be substantial savings in juror costs for fiscal year 1983.

In the Central Violations Bureau area, during fiscal year 1983, we hope to consolidate every district court within one of nine consolidated districts to not only improve the efficiency of processing the approximately 500,000 violation notices processed annually by the district courts, but more importantly, to increase the collections on tickets which previously were not processed to completion. This has already occurred in several of the consolidated courts and, as the consolidation is expanded, more savings are expected. (During the year ended June 30, 1981, over $6,000,000 was collected by Central Violations Bureaus.) Experience clearly shows that failure to follow up summonses in a timely manner tends to result in noncollection.

We also anticipate a savings in the rental of space. We are presently studying 12 underutilized court facilities and have recommended to the Judicial Conference that either certain types of space at the facility or the entire facility be released back to the GSA. If the Conference agrees to these recommendations, a savings of approximately $153,000 will result.

Also, the Judicial Conference has adopted new space guidelines for the official court reporters which authorize less space than was previously allowed. The Conference authorized the Administrative Office, where feasible, to recoup, release, or obtain reimbursement of space presently occupied in excess of the standard allowed. As a result of this authority, we have either released the excess space back to the GSA or transferred the excess space to other court functions, thus deleting a pending space request for new space or eliminating the need to request additional space. This has resulted in an additional annual savings of approximately $270,500.

MAGISTRATES

Question: Please provide for the record a summary by location of the current distribution of all positions assigned the magistrates, and what the distribution would be with the increases requested for 1983. For each location, display the number of full-time and part-time magistrates, legal assistants, and secretaries.

Answer: Following is a summary, by location, of legal assistant positions assigned to full-time magistrates and the distribution after October 1, 1982. It should be noted that each full-time magistrate, except for the position at Yellowstone National Park, is authorized a secretary.

	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
District and Location	Full Time	Part Time	Combination*	Legal Assts	Full Time	Part Time	Combination*	Legal Assts
D.C. Circuit								
District of Columbia	3	-	-	3				
1st Circuit								
Maine:								
Portland	-	1	1	-	+1	-1		
Bangor	-	1	-	-				
Massachusetts:								
Boston	4	-	-	-				
Worcester	-	1	-	-				
Springfield	-	1	-	-				
Cape Cod	-	1	-	-				
New Bedford	-	1	-	-		-1		
Pittsfield	-	1	-	-		-1		
New Hampshire:								
Concord	-	-	1	-				
Puerto Rico:								
San Juan	3	-	-	3				
Rhode Island:								
Providence	1	-	1	-				
2nd Circuit								
Connecticut:								
New Haven	1	-	-	1				
Hartford	1	-	-	1				
Bridgeport	1	-	-	1				
New York, Northern:								
Syracuse	1	-	-	1				
Albany	1	-	1	-				
Champlain	-	1	-	-				
Watertown	-	1	-	-				
New York, Eastern:								
Brooklyn	3	-	-	2				
Hempstead	1	-	-	1				
Patchogue	-	1	-	-				
New York, Southern:								
New York City	7	-	-	7				
Poughkeepsie	-	1	-	-				
New York, Western:								
Buffalo	1	-	-	1				
Rochester	-	1	-	-				
Elmira	-	1	-	-				
Niagara Falls	-	1	-	-				
Olean	-	1	-	-				
Vermont:								
Burlington	1	-	-	-				

* Combination position of bankruptcy judge-magistrate, clerk of court-magistrate, or deputy clerk-magistrate.

	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
District and Location	Full Time	Part Time	Combin-ation	Legal Assts	Full Time	Part Time	Combin-ation	Legal Assts
3rd Circuit								
Delaware:								
Wilmington	1	-	-	-				
New Jersey:								
Newark	3	-	-	1				+2
Trenton	1	-	-	1		+1		
Camden	1	-	-	1				
Asbury Park	-	1	-	-				
Atlantic City	-	1	-	-				
Pennsylvania, Eastern:								
Philadelphia	5	-	-	3				+2
Reading	-	1	-	-				
Allentown	-	1	-	-				
Pennsylvania, Middle:								
Wilkes-Barre	1	-	-	-				+1
Harrisburg	1	-	-	-				+1
Scranton	-	1	-	-				
Williamsport	-	1	-	-				
Stroudsburg	-	1	-	-				
Pennsylvania, Western:								
Pittsburgh	2	-	-	1				+1
Erie	-	1	-	-				
Johnstown	-	1	-	-				
Virgin Islands:								
Charlotte-Amalie	-	-	1	-				
Christiansted	-	1	-	-				
4th Circuit								
Maryland:								
Baltimore	4	-	-	3				
Hyattsville	1	-	-	-				
Upper Marlboro	-	1	-	-				
Hagerstown	-	1	-	-				
Salisbury	-	1	-	-				
North Carolina, Eastern:								
Raleigh	1	-	1	1				
New Bern	1	-	-	1				
Fayetteville	-	1	-	-				
Wilmington	-	1	-	-				
North Carolina, Middle:								
Greensboro	1	-	-	1				
Winston-Salem	1	-	-	1				
North Carolina, Western:								
Asheville	1	-	-	-				
Charlotte	-	-	1	-				
Bryson City	-	1	-	-				
South Carolina:								
Columbia	1	1	-	-				
Charleston	1	-	-	-				+1
Greenville	1	-	-	-				+1
Florence	-	1	-	-				
Aiken	-	1	-	-				
Virginia, Eastern:								
Alexandria	3	-	-	-				
Norfolk	2	-	-	1				
Williamsburg	1	-	-	-				
Richmond	1	1	-	1				
Virginia, Western:								
Roanoke	1	-	-	-				
Charlottesville	1	-	-	-				
Abingdon	1	-	-	-				
Winchester	-	1	-	-				
West Virginia, Northern:								
Elkins	1	-	-	-				
Morgantown	-	1	-	-				
Wheeling	-	1	-	-				
Parkersburg	-	1	-	-				
Martinsburg	-	1	-	-				

	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
District and Location	Full Time	Part Time	Combination	Legal Assts	Full Time	Part Time	Combination	Legal Assts
West Virginia, Southern:								
Charleston..............	1	-	-	-				
Huntington..............	1	-	-	1				
Bluefield..............	-	1	-	-				
Logan..............	-	1	-	-				
Lewisburg..............	-	1	-	-				
5th Circuit								
Louisiana, Eastern:								
New Orleans..............	5	-	-	1				+1
Louisiana, Middle:								
Baton Rouge..............	1	-	1	-		+1	-1	+1
Louisiana, Western:								
Shreveport..............	1	-	-	-				
Lafayette..............	1	-	-	-				
Alexandria..............	-	1	-	-				
Lake Charles..............	-	1	-	-				
Monroe..............	-	1	-	-				
Leesville..............	-	1	-	-				
Mississippi, Northern:								
Greenville..............	1	-	-	-				+1
Aberdeen..............	1	-	-	-				
Oxford..............	-	-	1	-				
Mississippi, Southern:								
Biloxi..............	1	-	-	1				
Jackson..............	1	-	-	1				
Texas, Northern:								
Dallas..............	2	-	-	-				
Fort Worth..............	1	-	-	-				
Lubbock..............	-	-	1	-				
Wichita Falls..............	-	1	-	-				
Amarillo..............	-	1	-	-				
Abilene..............	-	1	-	-				
San Angelo..............	-	1	-	-				
Texas, Eastern:								
Beaumont..............	1	-	-	1				
Tyler..............	1	-	-	-				
Sherman..............	-	1	-	-				
Texarkana..............	-	1	-	-				
Texas, Southern:								
Houston..............	4	-	-	2				+2
Brownsville..............	1	1	-	1				
Laredo..............	1	-	-	-				
Corpus Christi..............	1	-	-	-				
McAllen..............	-	1	-	-				
Texas, Western:								
San Antonio..............	2	1	-	-				+1
El Paso..............	1	1	-	-	+1	-1		
Austin..............	1	-	-	-				
Waco..............	-	1	-	-				
Pecos..............	-	1	-	-				
Del Rio..............	-	1	-	-				
Eagle Pass..............	-	1	-	-				
Midland..............	-	1	-	-				
Big Bend Nat. Park.......	-	1	-	-				
6th Circuit								
Kentucky, Eastern:								
Lexington..............	1	-	-	1				
Ashland..............	1	-	-	1				
London..............	-	1	-	-				
Covington..............	-	1	-	-				
Kentucky, Western:								
Louisville..............	1	-	1	1				
Paducah..............	1	-	-	-				
Hopkinsville..............	-	1	-	-				
Bowling Green..............	-	1	-	-				
Owensboro..............	-	1	-	-				
Michigan, Eastern:								
Detroit..............	5	-	-	4				+1
Bay City..............	-	-	1	-				
Flint..............	-	1	-	-				

	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
District and Location	Full Time	Part Time	Combin-ation	Legal Assts	Full Time	Part Time	Combin-ation	Legal Assts
Michigan, Western:								
Grand Rapids	2	-	-	2				
Kalamazoo	-	1	-	-				
Marquette	-	1	-	-				
Traverse City	-	1	-	-				
Ohio, Northern:								
Cleveland	2	-	-	1				+1
Akron	1	-	-	1				
Toledo	1	-	-	-				+1
Lima	-	1	-	-				
Ohio, Southern:								
Columbus	2	-	-	1				
Cincinnati	1	-	-	1				
Dayton	1	-	-	1				
Portsmouth	-	1	-	-				
Steubenville	-	1	-	-				
Zanesville	-	1	-	-				
Tennessee, Eastern:								
Knoxville	1	-	-	1				
Chattanooga	1	-	-	1				
Greeneville	-	1	-	-				
Winchester	-	1	-	-				
Tennessee, Middle:								
Nashville	1	-	-	1				
Columbia	-	1	-	-				
Tennessee, Western:								
Memphis	2	-	-	2				
7th Circuit								
Illinois, Northern:								
Chicago	4	-	-	2				
Freeport	-	1	-	-				
Illinois, Central:								
Springfield	1	-	-	-				
Peoria	-	1	1	-				
Danville	-	-	1	-				
Rock Island	-	1	-	-				
Illinois, Southern:								
Benton	1	-	-	1				
East St. Louis	1	-	-	-				+1
Indiana, Northern:								
Hammond	1	-	-	1				
South Bend	1	-	-	1				
Fort Wayne	-	1	-	-				
Lafayette	-	1	-	-				
Indiana, Southern:								
Indianapolis	3	-	-	3				
Evansville	-	1	-	-				
New Albany	-	1	-	-				
Terre Haute	-	1	-	-				
Muncie	-	1	-	-				
Wisconsin, Eastern:								
Milwaukee	1	1	-	1				
Appleton	-	1	-	-				
Green Bay	-	1	-	-				
Fond du Lac	-	1	-	-				
Wisconsin, Western:								
Madison	1	-	1	1				
Ashland	-	1	-	-				
Tomah	-	1	-	-				
Wausau	-	1	-	-				
Eau Claire	-	-	1	-				
8th Circuit								
Arkansas, Eastern:								
Little Rock	2	-	-	2				
Jonesboro	-	1	-	-				
West Memphis	-	1	-	-				

	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
District and Location	Full Time	Part Time	Combination	Legal Assts	Full Time	Part Time	Combination	Legal Assts
Arkansas, Western:								
Fort Smith	1	-	-	-				
Hot Springs	-	1	-	-				
Harrison	-	1	-	-				
El Dorado	-	1	-	-				
Texarkana	-	1	-	-				
Iowa, Northern:								
Cedar Rapids	1	-	-	-				
Sioux City	-	1	-	-				
Dubuque	-	1	-	-				
Iowa, Southern:								
Des Moines	1	-	-	1				
Council Bluffs	-	1	-	-				
Burlington	-	1	-	-				
Minnesota:								
Minneapolis	2	-	-	-				+2
St. Paul	1	-	-	1				
Duluth	-	-	1	-				
Bemidji	-	1	-	-				
Missouri, Eastern:								
St. Louis	3	-	-	2				
Ozark National Scenic Riverways	-	1	-	-				
Cape Girardeau	-	1	-	-				
Hannibal	-	1	-	-				
Missouri, Western:								
Kansas City	2	-	-	2				
Springfield	1	-	-	1				
Nebraska:								
Omaha	1	-	-	1				
Lincoln	1	-	-	-				
Gering	-	1	-	-				
North Platte	-	1	-	-				
North Dakota:								
Bismarck	-	1	-	-				
Fargo	-	1	-	-				
Grand Forks	-	1	-	-				
Minnewaukan	-	1	-	-				
Minot	-	1	-	-				
Rolla	-	1	-	-				
South Dakota:								
Pierre	-	1	-	-				
Rapid City	-	1	-	-				
Sioux Falls	-	1	-	-				
Aberdeen	-	1	-	-				
9th Circuit								
Alaska:								
Anchorage	1	-	-	-				
Fairbanks	-	1	-	-				
Juneau	-	1	-	-				
Ketchikan	-	1	-	-				
Kodiak	-	1	-	-				
Nome	-	1	-	-				
Arizona:								
Phoenix	2	-	-	2				
Tucson	1	-	-	1		+1		
Grand Canyon Nat. Park	-	1	-	-				
Yuma	-	1	-	-				
Window Rock	-	1	-	-				
Flagstaff	-	1	-	-				
Kingman	-	1	-	-				
Page	-	1	-	-				
Nogales	-	1	-	-		-1		
Douglas	-	1	-	-		-1		
California, Northern:								
San Francisco	4	-	-	4				
Oakland	-	1	-	-				
Monterey	-	1	-	-				
San Jose	-	1	-	-				
Eureka	-	1	-	-				

District and Location	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
	Full Time	Part Time	Combination	Legal Assts	Full Time	Part Time	Combination	Legal Assts
California, Eastern:								
Sacramento................	1	-	-	1		+1		
Fresno....................	1	-	-	1				
Yosemite Nat. Park........	1	-	-	-				
Sequoia & Kings Canyon Nat. Parks........	-	1	-	-				
Redding...................	-	1	-	-				
Bakersfield...............	-	1	-	-				
Bishop....................	-	1	-	-				
Merced....................	-	1	-	-				
Modesto...................	-	1	-	-		-1		
Susanville................	-	1	-	-				
South Lake Tahoe..........	-	1	-	-				
Alturas...................	-	1	-	-				
Yreka.....................	-	1	-	-				
California, Central:								
Los Angeles...............	7	-	-	6				
San Bernardino............	-	1	-	-				
San Luis Obispo...........	-	1	-	-				
Santa Ana.................	-	1	-	-				
Long Beach................	-	1	-	-				
Santa Barbara.............	-	1	-	-				
Oxnard....................	-	1	-	-				
Twentynine Palms..........	-	1	-	-				
Lancaster.................	-	1	-	-				
Barstow...................	-	1	-	-				
California, Southern:								
San Diego.................	3	1	-	3	+1	-1		
El Centro.................	-	1	-	-				
Hawaii:								
Honolulu..................	1	1	-	-				
Hilo......................	-	1	-	-				
Lihue.....................	-	1	-	-				
Wailuku...................	-	1	-	-				
Johnston Island...........	-	1	-	-				
Idaho:								
Boise.....................	-	1	-	-				
Pocatello.................	-	1	-	-				
Coeur d'Alene.............	-	1	-	-				
Lewiston..................	-	1	-	-				
Twin Falls................	-	1	-	-				
Montana:								
Billings..................	-	1	-	-	+1	-1		
Great Falls...............	-	1	-	-				
Kalispell.................	-	1	-	-				
Butte.....................	-	1	-	-				
Missoula..................	-	1	-	-				
Wolf Point................	-	1	-	-				
Helena....................	-	1	-	-				
Glasgow...................	-	1	-	-				
Bozeman...................	-	1	-	-				
Cut Bank..................	-	1	-	-				
Miles City................	-	1	-	-		-1		
Nevada:								
Las Vegas.................	1	1	-	-				+1
Reno......................	-	2	-	-	+1	-2		
Elko......................	-	1	-	-		-1		
Oregon:								
Portland..................	2	-	-	2				
Eugene....................	1	-	-	1				
Pendleton.................	-	1	-	-				
Bend......................	-	1	-	-				
Coquille..................	-	1	-	-				
Washington, Eastern:								
Spokane...................	1	-	-	1				
Yakima....................	-	1	-	-				
Washington, Western:								
Seattle...................	2	-	-	2				
Tacoma....................	1	-	-	1				
Mt. Ranier Nat. Park.....	-	1	-	-				
Olympic Nat. Park........	-	1	-	-				
Bellingham................	-	1	-	-				
Vancouver.................	-	1	-	-				

	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
District and Location	Full Time	Part Time	Combination	Legal Assts	Full Time	Part Time	Combination	Legal Assts
10th Circuit								
Colorado:								
Denver	3	-	-	-				
Grand Junction	-	1	-	-				
Colorado Springs	-	1	-	-				
Rocky Mtn, Nat. Park	-	1	-	-				
Durango	-	1	-	-				
Cortez	-	1	-	-				
Steamboat Springs	-	1	-	-				
Monte Vista	-	1	-	-				
Fort Collins	-	1	-	-		-1		
Lamar	-	1	-	-		-1		
Kansas:								
Wichita	1	-	-	1				
Kansas City	1	-	-	1				
Topeka	1	-	-	1				
Junction City	-	1	-	-				
Leavenworth	-	1	-	-				
Colby	-	1	-	-				
Garden City	-	1	-	-				
Parsons	-	1	-	-				
New Mexico:								
Albuquerque	1	1	-	1				
Las Cruces	-	1	-	-				
Alamogordo	-	1	-	-				
Gallup	-	1	-	-				
Santa Fe	-	1	-	-				
Portales	-	1	-	-				
Farmington	-	1	-	-				
Roswell	-	1	-	-				
Oklahoma, Northern:								
Tulsa	1	-	1	-				
Miami	-	1	-	-				
Oklahoma, Eastern:								
Muskogee	-	1	-	-				
Sulphur	-	1	-	-				
Hugo	-	1	-	-				
McAlester	-	1	-	-				
Oklahoma, Western:								
Oklahoma City	2	1	-	-				+1
Lawton	-	1	-	-				
Altus	-	1	-	-				
Enid	-	1	-	-				
Utah:								
Salt Lake City	1	-	1	-				
Cedar City	-	1	-	-				
Monticello	-	1	-	-				
Vernal	-	1	-	-				
Wyoming:								
Yellowstone Nat. Park	1	-	-	-				
Cheyenne	-	-	1	-				
Jackson	-	1	-	-				
Lander	-	1	-	-				
Sheridan	-	1	-	-				
Casper	-	1	-	-				
Cody	-	1	-	-				
Green River	-	1	-	-				
Rawlins	-	1	-	-				
Worland	-	1	-	-				
11th Circuit								
Alabama, Northern:								
Birmingham	3	-	-	1				
Decatur	-	1	-	-				
Alabama, Middle:								
Montgomery	1	-	-	-				
Dothan	-	1	-	-				
Opelika	-	1	-	-		-1		
Alabama, Southern:								
Mobile	2	-	-	-				
Selma	-	1	-	-				

District and Location	F. Y. 1982				F.Y. 1983			
	Magistrates				Magistrates			
	Full Time	Part Time	Combination	Legal Assts	Full Time	Part Time	Combination	Legal Assts
Florida, Northern:								
Pensacola	1	-	-	1				
Tallahassee	-	1	-	-				
Panama City	-	1	-	-				
Gainesville	-	1	-	-				
Florida, Middle:								
Jacksonville	2	-	-	1				+1
Tampa	2	-	-	1				+1
Orlando	1	-	-	1				
Fort Myers	-	1	-	-				
Florida, Southern:								
Miami	4	-	-	3				
Fort Lauderdale	1	-	-	1				
Key West	-	1	-	-				
Fort Pierce	-	1	-	-				
Georgia, Northern:								
Atlanta	4	-	-	2				+1
Rome	-	1	-	-				
Gainesville	-	1	-	-				
Newnan	-	1	-	-				
Georgia, Middle:								
Columbus	-	1	-	-				
Macon	-	1	-	-				
Albany	-	1	-	-				
Athens	-	1	-	-				
Valdosta	-	1	-	-				
Georgia, Southern:								
Savannah	1	-	-	-				
Augusta	1	-	-	-				
Brunswick	-	1	-	-				
Swainsboro	-	1	-	-				
	217	254	20	124	+ 5	- 12	- 1	+26

COURT WORKLOADS

Question: The 1983 estimate of the Department of Justice indicates that the U.S. Attorney expects to file 28,000 criminal cases in fiscal 1983. How does this square with the 36,500 criminal filings shown on page A-1.6 of the 1983 budget amendment in support of the 133 additional deputy clerk positions?

Answer: Our estimate of 36,500 is based on the recent trend in criminal case filings in United States district courts. Since reaching the lowest level during the year ended March 31, 1980, criminal filings have been increasing steadily. In fiscal year 1981, actual criminal filings increased to 31,280 cases, more than 3,000 above the Department of Justice estimates for fiscal years 1982 and 1983. Since the end of fiscal year 1981, criminal filings have continued to increase. During the year ended March 31, 1982, there were nearly 32,000 criminal cases filed. Given the Administration's emphasis on violent crime, we have every reason to expect a continuation of the recent trend in criminal filings.

COURT SECURITY

Question: This Subcommittee has long been concerned that security be maintained in the courtrooms. Last year, the Attorney General acknowledged the need and said he would meet with the Chief Justice to work out a better arrangement. What arrangements are now contemplated to assure adequate courtroom security?

Answer: The Attorney General created a task force to study the court security issue. The report of that task force was published in March 1982. It outlines an approach to providing comprehensive judicial security in a manner which serves the Judiciary's priority needs while at the same time addressing the reality of budgetary constraints. The Joint Statement issued by the Chief Justice and the Attorney General at the Judicial Conference of the United States in March of this year (attached to Chief Judge Charles Clark's prepared statement) outlines the agreement reached by the two branches of Government, an agreement which the Judicial Conference approved at that meeting.

Pursuant to the agreement reached by the Attorney General and the Chief Justice on behalf of the Judicial Conference, the Department of Justice has sought a delegation of authority from the GSA for all contract services. (See attached letter from Deputy Attorney General Schmults to Gerald Carmen, dated April 30, 1982.) It is anticipated that this agreement will be finalized in the near future. In addition, the Department has gone forward with plans for creating a contract unit in the United States Marshals Service to write Requests for Proposals which will allow the Marshals Service to control the hiring, screening, qualifying, training, scheduling, and monitoring of contract services, both personnel and equipment contracts. The delegation of authority from GSA would establish accountability for the entire judicial security program in one agency — the United States Marshals Service. To implement the recommendations of the task force, the Marshals Service will be undertaking a needs assessment on a court-by-court basis. Under the agreement it must then provide a plan for each court, a plan which addresses the judicial security needs and the methods by which these needs will be met.

In order to implement the agreement reached by the Chief Justice and the Attorney General, we are requesting the creation of a new appropriation account for court security. This fund would permit the courts to reimburse the Marshals Service for providing comprehensive court security tailored to meet the priority needs of the Judiciary.

APR 30 1982

Honorable Gerald P. Carmen
Administrator
General Services Administration
Washington, D.C. 20405

Dear Jerry:

As promised in my letter of April 14, 1982, enclosed are three draft documents which are designed to implement the delegation of procurement authority from the General Services Administration (GSA) to the Department of Justice (DOJ) to contract for private security services to provide certain court security for the Federal Judiciary.

To achieve this, our Court Security Implementation Group has completed the following documents:

- A draft Delegation of Procurement Authority;
- A draft Memorandum of Understanding between GSA and DOJ; and
- A draft plan for "phasing in" the assumption of this responsibility by the United States Marshals Service (USMS).

We believe that these documents provide a sound and efficient mechanism for facilitating and implementing our requested delegation of procurement authority.

As you know, previous correspondence concerning this matter has focused upon contracted private guard services. The need for the USMS to have the capacity to provide a range of security measures--namely, personnel, procedures and equipment--is critical to provide and maintain adequate protection of the Federal Judiciary. Therefore, we are proposing that the requested delegation include the authority to procure, install and maintain security equipment for the same designated areas to be secured by private guard services. The enclosed draft documents reflect this addition to the requested procurement authority.

I hope the enclosed documents meet your approval, thereby allowing for final action on this matter as soon as possible. We appreciate your interest and involvement in our requested delegation of procurement authority. As reflected in our phase-in plan, we anticipate maintaining continuous contact with your staff prior to and throughout the implementation phase of this program.

Sincerely,

Edward C. Schmults

Honorable William French Smith
Attorney General
Department of Justice
10th and Constitution Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Attorney General:

This letter refers to your Agency Procurement Request of April 14, 1982. Your stated requirement was for a Delegation of Procurement Authority (DPA) to contract for private guard services and for the installation and maintenance of security equipment for certain designated space occupied and used by the Federal Judiciary within facilities controlled by the General Services Administration (GSA) under the authority of 40 U.S.C. § 490.

Based on the information and certification therein, we are granting you subject to the execution of a Memorandum of Understanding, a DPA for the acquisition of the necessary resources to satisfy this requirement. This DPA is expressly limited to providing contract guard services and security equipment for the following areas:

> Courtrooms, judicial chambers and reception areas, hearing rooms, Magistrate offices, jury and witness rooms, Clerk of Court offices, and other allied space as defined by the judicial facility security plan.

We believe it to be in the best interest of the Federal judicial security program that security services procured through this DPA not be filled under the 8(a) provisions of the Small Business Act and are withholding the delegation of 8(a) authority unless specifically requested.

This DPA does not specifically approve or disapprove your planned acquisition strategy. It does require that you achieve maximum practical competition in executing this authority. As such, this DPA requires your compliance with all applicable Federal statutes, policies, and regulations.

Compliance with this delegation may be the subject of later procurement management review by GSA. Therefore, we urge you to take particular care to thoroughly document procurement files with all procurement solicitations, amendments, contracts, contract modifications, and supporting justification of the requirements discussed above that may tend to restrict the competition.

This DPA is effective as of January 1, 1983, or three months from the final approval of Department of Justice funding adequate to assume the program. This delegation will remain in effect until such time as permanent authorizing legislation is obtained or it becomes necessary to restructure program responsibilities.

I remain hopeful that the transition period and final transfer of program responsibilities will be accomplished smoothly, efficiently, and in the best interests of the Federal courts. Please have your implementation staff contact ________(name)________, ________(title)________, ____(phone)____, who will be the coordinator for GSA.

Sincerely,

Gerald P. Carmen
Administrator
General Services Administration

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GENERAL SERVICES ADMINISTRATION
AND THE DEPARTMENT OF JUSTICE

CONTRACTING FOR PRIVATE GUARD SERVICES AND EQUIPMENT FOR PROVISION OF COURT SECURITY TO THE FEDERAL JUDICIARY

PURPOSE

The Department of Justice (DOJ) and the General Services Administration (GSA) enter into this Memorandum of Understanding concerning the provision of private guard services and security equipment for the Federal Judiciary in Federally owned or leased buildings which are under the administration of the GSA.

AUTHORITY

This agreement is established under the authority of Title 28, Code of Federal Regulations (CFR), Section 0.111(d) and (e), which delegates authority to the Director, United States Marshals Service (USMS), from the Attorney General to provide for the protection and security of Federal jurists and other court officers, and for the implementation and administration of courtroom security requirements.

SCOPE OF DELEGATION

This Memorandum of Understanding between the DOJ and the GSA provides for defining specific areas of responsibility delegated by the GSA to the DOJ in the administration of certain security and protective services for the Federal Judiciary in courtrooms and adjacent judicial areas thereto. Both agencies hereby recognize the responsibilities placed upon the USMS under 28 CFR 0.111(d) and (e), and have entered into this understanding to allow enhanced and expanded security and protective services to a greater number of the Federal Judiciary in an ever increasing climate of threats against them.

The USMS will, through direct private contracting, provide private guard services and security equipment for all designated space occupied and used by the Federal Judiciary within a GSA-controlled facility. The following areas are included:

> Courtrooms, judicial chambers and reception areas, hearing rooms, Magistrate offices, jury and witness rooms, Clerk of Court offices, and other allied space as defined by the judicial facility security plan.

The GSA will retain its primary responsibility for the provision of general facility and perimeter security for buildings occupied by the Federal Judiciary.

Guard Services

The USMS will provide guard services for the Federal Judiciary through the delegated authority from the GSA to acquire and monitor the same. The USMS will establish criteria for procuring private guard services through contracting procedures in accordance with Title 41 CFR. The criteria will identify qualifications and training requirements, delineate performance and evaluation standards, and specify work schedules for contracted private guard services.

Equipment

The USMS will provide security systems for the Federal Judiciary through the delegated authority from GSA to acquire, install and maintain the same. The USMS will establish criteria for procuring equipment through contracting procedures in accordance with Title 41 CFR. The criteria will identify appropriate types of security systems needed, acceptable levels of operation, and maintenance schedules.

TRANSFER OF FUNCTION

The GSA will continue to write, execute and administer service contracts during the period of establishment of a contracting function by the USMS. Transfer of the contracting function will occur in accordance with the implementation plan mutually agreed upon by the GSA and the USMS. Upon the request of the USMS, the GSA agrees to extend contracting services during the phase-in period of the contract function on a case-by-case basis.

Phase-In Plan

The USMS and GSA will establish a transition working group to meet and confer on existing contracts with the goal of developing a phase-in plan to transfer the administration and funding of contracting to the USMS.

Transfer of Necessary Positions and Funding

It is agreed that the transition working group will determine the total number of workyears and other resources currently devoted to the support of the subject responsibilities and will prepare necessary draft documentation for the transfer of necessary positions and funding.

GSA Detail to Assist in Coordinated Transition of Function

In order to provide a coordinated transition, it is agreed that the GSA will detail to the USMS, for a period of at least 90 days, a program manager, or his designee, who is thoroughly versed in security and procurement responsibilities.

EFFECTIVE DATE

The Memorandum of Understanding will be effective upon signature of both parties.

WILLIAM FRENCH SMITH Attorney General Department of Justice	GERALD P. CARMEN Administrator General Services Administration
Date	Date

DEVELOPMENT OF A PHASE-IN TRANSITION PLAN

CONTRACTING FOR PRIVATE GUARD SERVICES AND EQUIPMENT FOR PROVISION OF COURT SECURITY TO THE FEDERAL JUDICIARY

The Department of Justice (DOJ) and the General Services Administration (GSA) will develop a plan for phasing-in the assumption of contracting responsibilities for private guard services and for the installation and maintenance of security equipment for the provision of court security to the Federal Judiciary. This plan will be designed to initiate an orderly and effective transition through systematic and comprehensive cooperation between the United States

Marshals Service (USMS) and GSA. The development of this phase-in plan will consist of the following five steps:

1. Establishment of a Transition Working Group

To assist the USMS in assuming contracting responsibilities for private guard services and for the installation and maintenance of security equipment, the USMS will assign two representatives; DOJ will provide one representative from the Procurement and Contracts Staff, Justice Management Division; and GSA will designate two representatives, specifically, a GSA Headquarters procurement specialist and a building security program manager, who are currently involved in the responsibilities being transferred to the USMS to form a transition working group. This working group will meet on a weekly basis, or as determined by the head of the transition working group, beginning 30 days from the effective date of the Memorandum of Understanding, but no later than October 1, 1982, to identify elements and components of all subject contracting responsibilities and to subsequently effect a systematic and gradual transfer of the same.

2. Identification of the Scope of the Transfer

As a preliminary step to establishing a phase-in transition plan, the scope of the transfer must be clearly defined. With respect to those contracts DOJ is expected to assume, the following information, at a minimum, must be provided by GSA:

- Number of existing contracts;
- Dollar amounts of contracts;
- Facilities covered by contracts;
- General contractor information;
- All unsuccessful bidders for each contract;
- Type of contract;
- Statements of work for:
    - Guard service contracts, including whether it procures fixed and/or roving posts, the location(s) of post(s) and contracted hours/workyears;
    - Security equipment contracts, including whether it is a purchase, installation or maintenance contract;
- All administrative or overhead costs assigned to the identified contracts.

In addition, GSA shall provide any and all other pertinent information concerning contracts involved in this transfer.

3. Development of the Phase-In Plan for the Transfer

Upon identifying the scope of the transfer and necessary participatory procedures to effect a successful transition, the transition working group will identify all task elements and duties to be accomplished by the working group, encompassing the full scope of the transition. To that end, they will set forth a chronologically designed pre-implementation schedule of specific steps and events leading to and including implementation plans of the assumption of contracting responsibilities. At a minimum, the implementation plan will define the basis for assuming contracting responsibilities, the sequence of transfer, the role of GSA and USMS in effecting the transfer, and target dates for major events.

It will be the goal of the working group to accomplish this phase of their study within 60 days of the effective date of the Memorandum of Understanding.

4. Approval by GSA and USMS

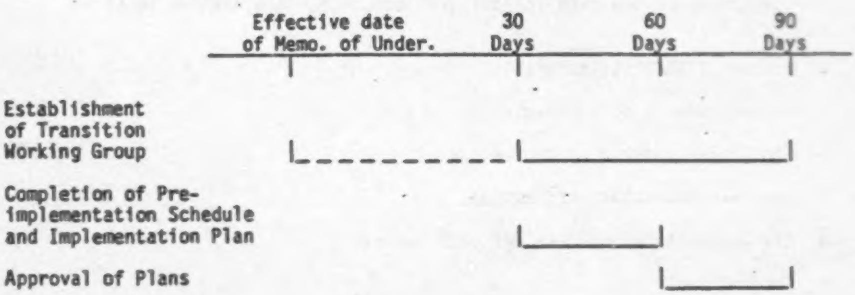
Much of that which will be developed during the pre-implementation stage, and subsequently executed during the implementation stage, will encounter policy issues. Because it is understood that policy development is necessary to implement this transition, the working group will obtain concurrence from their respective agencies within 90 days of the effective date of the Memorandum of Understanding concerning the formulation of any policy which will significantly impact upon both GSA and the USMS.

5. Coordination During Transition Period

The transition procedures will be designed to ensure a mutual understanding of the strategy for implementation. In this regard, the working group will assist the USMS prior to and during actual implementation until such time that all existing GSA contracts, to be affected by this assumption of contracting responsibility by the USMS, have expired. Actual implementation will begin on January 1, 1983, or three months from the date of approval of the USMS Fiscal Year 1983 Budget, which contains necessary funding and positions.

The following Table presents a time frame for the pre-implementation phase of the transition period. This 90-day period may not extend beyond January 1, 1983, as that is the anticipated date to begin implementation.

TIME FRAME FOR PRE-IMPLEMENTATION



The transition working group will cease to exist at such time that all existing GSA contracts involved in this transfer have expired.

Question: Is it not correct that the judges have used the bailiff position authorized them to create an additional law clerk?

Answer: In October 1970, the Judicial Conference of the United States approved the proposal that a district judge may have two law clerks instead of one law clerk and one crier (bailiff). Prior to 1980, many of the judges used their crier (bailiff) as a law clerk. In fiscal year 1980, the Congress appropriated funds to implement the Judicial Conference proposal. Since that time, the majority of the district judges have elected to employ a second law clerk in lieu of the crier (bailiff).

Question: How can we be assured the Judiciary will only use the new pool of funds for court security?

Answer: Our proposal before the Committee would establish a separate appropriation account to be used only to reimburse the Marshals Service for contract guard services and acquisition and maintenance of equipment to provide security to judicial personnel and proceedings in judicial facilities. It would require an act of Congress, through the Appropriation process, for the Judiciary to use these funds for other than security purposes.

JUROR USE

Question: Last year, the General Accounting Office (GAO) reported that the courts were not using meaningful statistics in managing and monitoring juror use. This Committee's report, accompanying the 1982 Appropriations Act, supported the GAO's recommendation in this area. Since the justifications do not indicate that any consideration was given to GAO's recommendations, could

you tell us if their recommendations have been implemented and what impact they had on the 1983 estimates?

Answer: The Administrative Office sent a report on "Efforts to Improve Juror Utilization" to the Senate Appropriations Committee in February describing in detail efforts made to comply with the GAO's recommendations in the juror utilization area. We indicated that as a result of the GAO report the Circuit Judicial Councils are increasing their supervisory role over jury practices, sponsoring juror utilization workshops for judges and jury clerks, monitoring juror usage in the district courts, and asking for technical assistance from the Administrative Office to improve juror utilization in specific courts within their circuits. Some progress has already been made by certain courts that have adopted improved juror utilization procedures. However, work is still needed in this area and further progress is expected in the future as the result of training and other efforts taking place over the next few months.

In response to the GAO recommendations in the area of statistical reporting, the Administrative Office has developed a revised Petit Juror Usage Report form which will shift the focus of utilization statistics. The objective is to highlight the number of jurors reporting for jury selection rather than the total number reporting for service. This new juror reporting system will be implemented on July 1, 1982. The new report will allow for statistical compilations which highlight first day juror usage as well as provide the overall statistics currently in use.

Despite this anticipated improvement in juror utilization, juror costs are expected to increase in 1983 due to an increase in the number of jury trials conducted. This uncontrollable factor, along with other uncontrollables such as increases in juror fees and reimbursement expenses, have required increases in the jury appropriations despite improvements in juror utilization over the past ten years. However, if not for this improvement, the past rate of increase would have been higher. It should also be noted that most district courts now use 6-person juries for civil trials, rather than traditional 12-person juries, which has saved millions of dollars in jury costs over the last ten years.

ADMINISTRATIVE OFFICE OF THE U.S. COURTS

STATEMENT OF WILLIAM E. FOLEY, DIRECTOR

ACCOMPANIED BY:

EDWARD V. GARABEDIAN, ASSISTANT DIRECTOR FOR PERSONNEL AND FINANCIAL MANAGEMENT

DEWEY R. HEISING, CHIEF, FINANCIAL MANAGEMENT DIVISION

BUDGET REQUEST

Senator WEICKER. Your statement is already entered into the record; is that correct?

Mr. FOLEY. Yes, sir.

Senator WEICKER. The budget request assumes a 15-percent inflation rate in most of the uncontrollable areas for 1983. Administration statistics show the current rate of inflation to be much lower. Do you still believe that the 15-percent rate is justified?

Mr. GARABEDIAN. Mr. Chairman, if I may respond to that. We did include a 15 percent rate of inflation which in the aggregate adds up to about $513,000. We are now projecting an 8-percent increase, which will result in a savings of $238,000. This will offset an increase in our rent, which is $358,000. We would still have a deficit of over $100,000.

GSA has informed us and, as a matter of fact, our current billings have increased by $358,000 as a result of a relocation of some of the people at the AO, involuntarily, from one building leased by GSA to another building which is being leased by GSA. So although there is a savings as a result of a reduced inflation rate, it is more than offset by the increase in rent.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. The other questions that I have will be submitted to you for response to the record. Thank you very much.

Mr. FOLEY. Thank you, Senator.

[The following questions were not asked at the hearing but were submitted to the Administrative Office for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR LOWELL P. WEICKER, JR.

GSA INCREASES

Question: The Administrative Office is requesting an increase of over $1 million for increased rental costs for space. Throughout the budget for the Judiciary, we have noticed excessive GSA increases in some cases over 100 percent of the 1982 levels. Did GSA give you any justification for these increases?

Answer: GSA's policy in the past has been to revise rental space rates every three years. Most of the rental rates for the Administrative Office space were due to be revised in fiscal year 1983. The rates had not been increased since 1980. The GSA appraisal of rates in the Washington, D.C. area indicated that the three-year old rates were significantly less than commercial real estate rates for comparable space because the three-year rate had not kept pace with inflation. Also in a Bulletin dated July 28, 1980, GSA indicated that starting in fiscal year 1983 it will change its policy of three-year period rates with annual rate escalations. Therefore, in the future we do not expect our rates to increase significantly from year to year. For example, the projected fiscal year 1984 rates published by GSA have increased only slightly (3.5 percent) over 1983.

Question: Do you expect to receive additional services?

Answer: It is generally felt that we will not receive additional services. As a matter of fact, we expect a reduction in services. As an example, GSA has already reduced its security protection force provided for under the SLUC agreement. Nationally, in fiscal year 1981 GSA provided approximately 300 full-time protective service positions in those buildings in which the federal courts are tenants. In fiscal year 1982, the number of full-time protective service positions has been reduced to approximately 200, a reduction of 33 1/3 percent. GSA has notified us that the standard level user charge per square foot for standard protection has been reduced from 30 to 32 cents (depending on building) to a flat 24 cents per square foot rate. This is a percentage reduction of 20 to 25 percent, again depending on the building. We believe that the SLUC rate should be reduced by at least 33 1/3 percent, the same as the percentage decrease in protective service positions. We have noticed that cyclical maintenance and upkeep, such as periodic painting and drapery and carpet cleaning, have deteriorated. Further, because of the lack of GSA-assigned personnel, virtually all of the reimbursable alteration work must be contracted out instead of using in-house GSA personnel which increases the time of performance.

Question: Would you provide for the record what you are paying per square foot and per employee for space in the Administrative Office in 1982 and 1983? We would also like to have that information for the remainder of the Judiciary.

Answer: The Administrative Office is paying $11.17 per square foot of space in 1982 and $3,173 per employee. In 1983, we estimate an increase to $19.02 per square foot and $5,242 per employee.

For the remainder of the Judiciary, we are paying $9.60 per square foot and $7,316 per employee in fiscal year 1982 compared to $11.60 per square foot and $9,016 per employee in fiscal year 1983.

FEDERAL COURTS IMPROVEMENT ACT OF 1982

Question: The Federal Courts Improvement Act of 1982, Public Law 97-164, provides for an experimental program employing electronic devices for court reporting purposes in district courts. What are the Judiciary's plans for implementing this experimental program?

Answer: Public Law 97-164 amends 28 U.S.C. 753(b) to allow the use of electronic sound recording or other methods as the primary method of recording district court proceedings, subject to (1) the discretion of the individual judge and (2) regulations that Congress has directed the Judicial Conference to issue sometime after September 30, 1983. The regulations are to "prescribe the types of electronic sound recording or other means" to be used. The amendment does not take effect until the regulations are issued.

Furthermore, Congress directed the Conference to "experiment with the different methods of recording court proceedings" prior to issuing its regulations. The Administrative Office and the Federal Judicial Center have developed the basic design of a project to execute that experiment for the Conference. The basic project design has been approved by the Directors of the two agencies and will soon be submitted for comment to all interested parties, including, of course, the federal court reporters. The project will be directed primarily by Center personnel with logistical and financial support and technical and administrative assistance from the Administrative Office.

Although there are several recording technologies in addition to stenotyping, at this point the need appears greatest to assess if and how electronic sound recording can and should be used. The experiment will provide information on (1) the cost and flexibility of using electronic sound recording methods to record district court proceedings and (2) procedures for preparing transcripts from electronic sound recordings. Transcript production from electronic sound recordings will be assessed on the criteria of timeliness, cost, and adequacy for the purposes for which the transcript is used. In part because 28 U.S.C. 753(b) remains in effect unamended until the regulations are promulgated, the project will necessarily test electronic sound recording in parallel to the methods currently used to create the original record and official transcript.

BANKRUPTCY NOTICING SYSTEM

Question: There is a request in the budget for 10 positions and $1,329,000 for the Bankruptcy Noticing System. These funds would enable you to develop an in-house capability for providing the service and would allow for the expansion of the system to 20 bankruptcy court districts. Have you conducted an evaluation of the New Jersey pilot project prior to deciding to expand the system?

Answer: The report on the Bankruptcy Noticing System which has been filed with the Committee, contains a detailed cost-benefit analysis and evaluation of the New Jersey pilot project.

In brief, although positions and equipment for a centralized system will cost more than $1,000,000 to set up and operate the automated noticing function for 20 courts, the offset savings for those courts in positions saved, reduced demand for high-volume copiers and mail processing equipment, space reutilization, and postage cost reductions is estimated at close to $3,000,000.

Question: What are the advantages of providing the function in-house instead of hiring an outside contractor?

Answer: Although the pilot phase of this project has been limited to the New Jersey bankruptcy court alone, our cost-benefit analysis clearly indicates the success of the system in the New Jersey court and the desirability of extending the system to many other courts. At the request of Congress during our fiscal year 1982 budget hearing, we analyzed the cost of the originally planned expansion via contractor and have decided not to expand operation to other courts via contract for several reasons:

(1) The cost of operating New Jersey by contract is approximately $250,000, a significant increase annually above original projections due to increased bankruptcy filings. Expansion to additional larger courts was not possible within the funding level provided by Congress.

(2) Congress specifically questioned the viability of continuing contract operation and denied funds for expansion via contractor.

(3) Our analysis showed contract operation to be much more expensive than our proposed in-house system for multi-court operation. For the 20 courts, operation by contract is estimated to be over $6,000,000, or approximately 5 times the cost of the in-house proposal.

Question: What do you estimate to be the total cost of implementing the system?

Answer: For the long range, we plan to put as many bankruptcy courts on the system over the next few years as is feasible. These will be high-to-medium caseload courts where maximum benefits can be expected to accrue. Eventually, three-fourths of all bankruptcy courts will be served by the system.

The total cost of the fully expanded system cannot be accurately estimated at this time. Some of the variables to be considered are further refinement of work measurement studies using multiple automated bankruptcy courts and operating alternatives, such as regional centers serving one or more circuits, and the level of bankruptcy filings. We do expect the cost per court of adding additional courts to steadily decrease in proportion to the initial cost of establishing service for 20 courts.

In addition, we plan to enhance the system capabilities to provide for automatic by-product generation of bankruptcy statistical reports and case auditing which will further reduce the cost of preparation of the Administrative Office's Annual Report and improve bankruptcy case administration.

Question: In regard to the Bankruptcy Noticing System, please tell us how this will aid the bankruptcy courts. Do you foresee any personnel savings as a result of this automation effort?

Answer: At present, noticing performed in the courts is a very labor-intensive function. Each bankruptcy filing requires at least two mailings to creditors and other interested parties during the life of the case. Many cases will require many more notices and in Chapter 11, for example, have thousands of creditors. On a national basis, 25 million notices were mailed in the past year.

To meet this volume of paperwork, which continues to grow in proportion to the overall dramatic increase in bankruptcy petitions filed, the courts require more positions, high-volume copiers, more space, and many courts request specialized mail processing equipment. The establishment of a centralized automated center for printing and distribution of notices will permit this function to be done more efficiently and economically. Court personnel will be responsible for initial input of all case and creditor data. Beyond case opening, all notices, claims register preparation, and other case management reporting will be handled by the automated system with minimal effort by the court.

Although data is not available for operation of the system other than in New Jersey, it is clear that personnel savings result from installation of the noticing system. The recent Administrative Office bankruptcy work measurement study presented a standard staffing equation which, if applied to the New Jersey district, would indicate that 37 positions are needed to cope with the present caseload. New Jersey is operating effectively with a staff of 30 (including two new positions for data entry) and has eliminated the backlog of work since installation of the system. New Jersey personnel savings are approximately 20 percent.

A preliminary operational audit found that the hours spent on notice and claim processing for each petition are 2.48 for unautomated courts versus 1.17 hours per petition including keying hours in the New Jersey court, or a savings of 1.31 hours per petition. If the rate of filings remained at the study levels (June 30, 1981), personnel savings in the 20 courts are estimated at 122 positions through use of the automated system. Considering the continuing growth in bankruptcy filings, this figure represents personnel that will not need to be hired as opposed to a reduction of existing positions.

FEDERAL JUDICIAL CENTER

STATEMENT OF A. LEO LEVIN, DIRECTOR

ACCOMPANIED BY CHARLES W. NIHAN, DEPUTY DIRECTOR

PREPARED STATEMENT

Senator WEICKER. The next request is that of the Federal Judicial Center. The amount requested is $8,598,000, an increase of $828,000 over fiscal year 1982 as adjusted for pay costs and provides for 92 permanent positions. The request includes $828,000 as adjustments to base, a net figure that reflects funds for mandatory personnel costs, increased costs for travel, telecommunications, contract rates, services, supplies, and space rental, as well as a transfer of $241,000 and six permanent positions to the Administrative Office of the U.S. Courts.

Appearing on behalf of this request is Mr. Leo Levin, Director. Mr. Levin, if you will please introduce those who accompany you. Your statement in its entirety will be included in the record at this point.

[The statement follows:]

STATEMENT OF A. LEO LEVIN

Mr. Chairman, I count it a privilege to appear, once again, before this subcommittee to present the Federal Judicial Center's appropriation request for fiscal year 1983. This request has been reviewed by the Chief Justice and the other members of the Board of the Federal Judicial Center, and it has their concurrence and approval.

The Center's request for fiscal year 1983 includes, for the second consecutive year, no programmatic increases whatsoever. Furthermore, the request reflects the continuation of the transfer of the operational aspects of the Center's computer-based case management system, COURTRAN, from the Judicial Center to the Administrative Office of the U.S. Courts. This transfer has been a matter of great interest to the subcommittee, and I am pleased to report that it is proceeding apace and on the schedule discussed with you earlier. As detailed below, it accounts for a further reduction in our base.

The Center's 1982 appropriation, as controlled by the current continuing resolution, is for $7,600,000. We anticipate submitting a proposed pay cost supplemental for $170,000. reflecting the pay increases granted in December 1981. pursuant to Public Law 97-92, section 141(a)(3). Approval of that request produces $7,770,000 in 1982 budget authority.

Our fiscal year 1983 request represents a net change of $828,000, attributable solely to the adjustments in our base appropriation over which we have virtually no control. The major portion of these adjustments are simply imposed on us by other Government agencies, namely the General Services Administration. The single largest increase—$382,000—is to meet the increase in GSA charges for space rental and related services; I note that only the charges have increased, not the space or the services, and $315,458 of this sum represents a recalculation by GSA of what should be charged for use of property already owned by the Government, namely the Dolley Madison House and an adjacent building.

Inflationary increases in contract rates and charges for services, supplies, and capital assets account for $290,000. Inflationary increases in subsistence alowance and air fares account for $267,000 of these base adjustments, and $65,000 represent the increase in Federal telecommunications system charges. Salary adjustments, both within-grade advancements and merit increases, as well as the annualization of the statutory pay increase of last December, account for $65,000.

The adjustments to base also reflect a decrease of $241,000, and six permanent positions, both transferred to the Administrative Office of the U.S. Courts. This is the second step of the COURTRAN transfer procedure that was begun, with the approval of Congress, during fiscal year 1982.

Mr. Chairman, this appropriation request represents a very lean, no-growth budget. I am bound to point out that for the past several years the Center has not received—and once again does not seek—any programmatic increases in its travel budget, even though the Federal judicial system has grown substantially with the addition of new judges and supporting personnel. Travel is a necessary ingredient of our education and training program, the largest single component of the Center's work. However, we have been making every effort to restructure our educational programs to reduce the need for travel and to take advantage of economies available; we shall, of course, continue to do so. At the same time, we recognize, as has the Congress, that significant overall cost savings can be achieved by continuing education—efficient juror utilization is an example—and seminars and workshops are often the most effective means of providing that education.

We appreciate the trust placed in the Center by the Congress and shall make every effort in the future to continue to merit that trust.

BUDGET REQUEST

Senator WEICKER. You may proceed to go ahead and synopsize it any way you want.

Mr. LEVIN. Thank you very much, Mr. Chairman. This is Mr. Charles Nihan, Deputy Director of the Center, who appears with me. It is a privilege to appear here.

For the second consecutive year we are asking no programmatic increases whatsoever. Indeed, over the past number of years, despite the increase in the size of the Federal judicial system, we have basically been trying very hard to hold the line.

As you have noted, there is a transfer out, pursuant to the old program involving COURTRAN, in which this committee has some interest.

All of the increases we are asking for result from the standard inflationary figures as calculated by other agencies. The single largest increase is to meet the increase in GSA charges for space rental and related services, $382,000.

The one that I confess bothers me the most is a figure of $315,458 for the rental of the two Government-owned buildings we occupy. We have no control over it whatsoever. That is simply their calculation of what this might be if the space were rented commercially.

Beyond that, Mr. Chairman, are simply the inflationary figures as given to us. We are asking, as I say, again for no programmatic increase whatsoever. We are trying very hard with our educational programs and otherwise to use alternative methods which are no less effective but cheaper.

Senator WEICKER. This is your budget request or is this one that is prepared for you?

Mr. LEVIN. Mr. Chairman, it is our budget and reviewed by our Board, approved by our Board. The figures I referred to above were simply the adjustment for inflation. The budget itself is ours, approved by the Board chaired by the Chief Justice.

Senator WEICKER. Last year you indicated that you had research in progress involving the growing problem of prolonged litigation. Presumably you have completed some of this work by now.

What is the status of your research regarding protracted cases in jury trials?

Mr. LEVIN. We have a number of projects on that. We have been doing a number of things. Some of the work has been completed and reports published. They show good results.

Our research is tied in with our educational program. Judges have been writing us that they are really shortening cases as a result of the case management mechanisms we teach, which grew out of our research. So we are making progress along that line.

GSA STANDARD LEVEL USER CHARGES

Senator WEICKER. The Judicial Center request for 1983 includes a rather modest uncontrollable increase of $828,000, or about 11 percent. However, that amount includes an increase of $363,000 for GSA standard level user charges. This represents a 91-percent increase. Can you explain why you received such a large SLUC increase?

Mr. LEVIN. No; we are totally opposed to that whole procedure, particularly since it is based on a hypothetical. If you consider only that portion of the SLUC user charge relating to the buildings we are renting, that increase is relatively modest. The biggest portion of the increase, $315,000-plus, is the GSA determination of what our two Government-owned buildings ought to carry in rent. That went up just this tremendous percentage in 1 year. Reduce that and we will reduce this tremendous sum that we are forced to ask.

TRAVEL

Senator WEICKER. Almost 27 percent of the Federal Judicial Center budget is for travel costs. That is a rather high proportion of an organization's budget for travel. Can you tell me why it is so high?

Mr. LEVIN. Yes, Mr. Chairman. I am pleased to do that.

I would like to note that almost 90 percent of our travel budget is for education and training of judges and support personnel. I would like to note further that there has been no programmatic increase in education and training travel since 1977, which was before enactment of the omnibus judgeship bill. So we are training far more people at far less travel cost. We didn't even get all the inflationary increases requested to date.

The reason travel costs so much is, first, it is a national Federal judiciary. The most economical and most effective way to discharge our educational mission is often by bringing people together for regional seminars:for appellate judges, U.S. District Court judges, bankruptcy judges, with tremendous burdens, magistrates, clerks, other supporting personnel.

The reason we have been able to do as much as we have been able to do without a programmatic increase and without even asking for all of the inflationary cost additions has simply been that we have been sending more and more videotapes as substitutes and have been experimenting with telephone conferences in different locations. And our publications are designed for educational purposes. So that explains the figures.

PREPARED STATEMENTS

Senator WEICKER. Thank you very much.

At this point in the record I would like to insert the statements of Howard T. Markey, Chief Judge, U.S. Court of Customs and Patent Appeals; Daniel M. Friedman, Chief Judge, U.S. Court of Claims; and Edward D. Re, Chief Judge, U.S. Court of International Trade.

[The statements follow:]

STATEMENT OF HOWARD T. MARKEY, CHIEF JUDGE, U.S. COURT OF CUSTOMS AND PATENT APPEALS

The request of the United States Court of Customs and Patent Appeals for its appropriations for fiscal year 1983 was prepared before the recent enactment of the Federal Courts Improvement Act of 1982. Under that Act the Court of Customs and Patent Appeals and the Court of Claims will be combined into the new Court of Appeals for the Federal Circuit, and the Trial Division of the Court of Claims will be replaced by the new United States Claims Court. The total amount requested in the proposed budgets of the Court of Customs and Patent Appeals and the Court of Claims for fiscal year 1983 have been divided between the Court of Appeals for the Federal Circuit and the United States Claims Court in accordance with an estimated breakdown of the anticipated division of personnel and operations of the two new courts. The enactment of the Federal Courts Improvement Act of 1982 will thus require no additional appropriations beyond those requested for the existing courts.

The comments that follow relate to the original budget request of the Court of Customs and Patent Appeals.

Our justification statement reflects an increase of $15,000 due to inflation in contract rates and costs of supplies, a mandatory increase of $14,000 in personnel costs, and a mandatory increase of $623,000 in the Standard Level User Charge made by GSA. We seek no additional funds for new programs, positions or equipment.

As you know, Mr. Chairman, we are required by law to obligate in our budget whatever amount is set by GSA as its Standard Level User Charge. When advised that this charge for 1983 would be $1,170,000, more than twice (113%) that charged for 1982, I joined with Chief Judge Friedman of the Court of Claims in advising GSA by letter that we could not represent such charge as justified and would so testify before the Congress. We stated that a 113% increase did not appear to be based on inflation, and that the charge, though it constitutes 44% of our budget, appeared to bear no relationship to the accomplishment of the courts' mission. We called attention in that letter to the repeated denial of our requests to repair or replace carpeting and draperies originally installed in 1967. In reply, GSA said the increase reflected rental rates for similar type space in comparable private commercial buildings in the area, and a change of policy whereby GSA will adjust the rate annually to compensate for inflation.

We bring this to your attention, Mr. Chairman, with no thought of reducing the SLUC charge as it appears in our appropriation request. We have neither the authority nor the expertise with which to suggest what might be an appropriate figure. We deem it a part of our responsibility to the Committee, however, to call its attention as much to those parts of our budget request which appear unjustified as to those parts we view as fully justified and necessary. So long as the indirect appropriation of public moneys for building construction, maintenance, and repair is continued, and government agencies are required to pay rent to another government agency, the justification of such charges must lie elsewhere.

STATEMENT OF DANIEL M. FRIEDMAN, CHIEF JUDGE, U.S. COURT OF CLAIMS

The request of the United States Court of Claims for its appropriations for fiscal year 1983 was prepared before the recent enactment of the Federal Courts Improvement Act of 1982. Under that Act the Court of Claims and the Court of Customs and Patent Appeals will be combined into the new Court of Appeals for the Federal Circuit, and the Trial Division of the Court of Claims will be replaced by the new United States Claims Court. The total amount requested in the proposed budgets of the Court of Claims and the Court of Customs and Patent Appeals for fiscal year 1983 have been tentatively divided between the Court of Appeals for the Federal Circuit and the United States Claims Court in accordance with an estimated breakdown of the anticipated division of personnel and operations of the two new courts. A copy of the estimated breakdown of funds is attached.

The comments that follow relate to the original budget request of the Court of Claims.

We are requesting a total of $8,106,000, which is an increase of $1,936,000, or 31 percent, of our current year's appropriation of $6,170,000. Although this is a large increase, all of it represents items over which we have no control. We are not seeking additional funds for any new programs, positions, or equipment.

Of the total additional $1,936,000 we are requesting, $1,789,000, or 92 percent, reflects the addition to the standard level user charges the General Services Administration unilaterally imposed upon us. The standard level user charges for 1983 of $3,265,000 is an increase of 121 percent over our current charges of $1,476,000. In response to a joint inquiry that Chief Judge Markey of the Court of Customs and Patent Appeals and I made to the General Services Administration for an explanation of this sharp increase, the Acting Commissioner of the Public Buildings Service of the General Services Administration stated that there had been no upward adjustment of our charges for three years and that the increase was necessary to make our charges comparable with "rental rates for similar type space in the private sector." The Acting Commissioner gave no explanation why our rental charges should be increased an average of 40 percent per year for each of the past three years and did not indicate that similar increases had taken place in comparable private office space.

Apart from the increase in the standard level user charges, the remaining additional $147,000 we are requesting covers higher costs resulting from inflation, cost-of-living pay increases, and within-grade promotions.

PROPOSED FUNDING

		Present Request Fiscal Year 1983			Proposed Funding After Merger		
		Court of Customs and Patent Appeals	Court of Claims	Total	Court of Appeals Federal Circuit	Claims Court	Total
11	Personnel compensation	$1,251	$3,835	$5,086	$2,556	$2,530	$5,086
12	Personnel benefits	98	347	445	201	244	445
21	Travel and transportation of persons	8	51	59	33	37	70
22	Transportation of things	1	6	7	3	4	7
23	(Standard level user charges	1,170	3,265	4,435	2,260	2,175	4,435
	(Communication, utilities, and other rent	55	141	196	96	100	196
24	Printing and reproduction	6	220	226	84	120	204
25	Other services	39	168	207	85	122	207
26	Supplies and materials	9	25	34	17	17	34
3	Equipment	23	48	71	50	32	82
	TOTAL	$2,660	$8,106	$10,766	$5,385	$5,381	$10,766

STATEMENT OF EDWARD D. RE, CHIEF JUDGE, U.S. COURT OF INTERNATIONAL TRADE

It is a pleasure to appear before you again on behalf of the United States Court of International Trade.

The appropriation request for fiscal year 1983 is $5,730,000, an increase of $364,000 over the $5,366,000 amount appropriated for fiscal year 1982.

I hasten to add, Mr. Chairman, that all of that increase is attributable to non-discretionary costs.

1. Approximately 77% of the increase ($278,000) is for charges imposed by General Services Administration for the rental of space, tenant alterations, and related services, pursuant to the Public Buildings Act of 1972. The amount requested for fiscal year 1983 is approximately 19% more than the amount appropriated for 1982. Of course, these charges are determined and imposed by the General Services Administration,

and we have no part in arriving at the amounts charged.

2. Another non-discretionary increase of $34,000 is necessary to provide for within-grade increases.
3. The balance of the requested increase, $52,000, is to provide for anticipated inflationary increases in the cost for services and equipment. For this purpose, we have used the inflation factor, of between 8 to 10%, suggested by the Administrative Office of the United States Courts.

I previously submitted the court's "General Statement" and "Justification of Charges" which provide a detailed description of the requested line item adjustments. If the Committee requires more information, we will be pleased to submit it, and I will, of course, answer any questions you may have.

SUBCOMMITTEE RECESS

Senator WEICKER. The subcommittee will stand in recess until the call of the Chair.

[Whereupon, at 10:08 a.m., Tuesday, May 11, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MAY 25, 1982

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, D.C.

The subcommittee met at 10 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

FEDERAL TRADE COMMISSION

STATEMENT OF JAMES C. MILLER III, CHAIRMAN

ACCOMPANIED BY
- BRUCE YANDLE, EXECUTIVE DIRECTOR
- JOHN H. CARLEY, GENERAL COUNSEL
- TIMOTHY J. MURIS, DIRECTOR, BUREAU OF CONSUMER PROTECTION
- THOMAS J. CAMPBELL, DIRECTOR, BUREAU OF COMPETITION
- ROBERT TOLLISON, DIRECTOR, BUREAU OF ECONOMICS
- JAMES A. WILLIAMS, ACTING DEPUTY EXECUTIVE DIRECTOR

PREPARED STATEMENT

Senator Weicker. The next request is that of the Federal Trade Commission.

The amount requested is $60,838,000, a decrease of $7,936,000 or the 1983 base, and a decrease of 145 positions.

Appearing on behalf of this request is James C. Miller III, the Chairman, who is accompanied by senior staff members.

Chairman Miller, we will be pleased to include your statement in its entirety in the record at this point. Also, I will include a letter and statement from Commissioner Pertschuk. You might introduce those accompanying you and we would be delighted to go ahead and have you summarize your statement and get into matters of concern to both of us.

[The information follows:]

STATEMENT OF JAMES C. MILLER, III

Mr. Chairman and Members of the Subcommittee: I am pleased to have this opportunity to testify today on behalf of the Federal Trade Commission concerning the Commission's budget for fiscal year 1983.[1] The mandate given to the Federal Trade Commission by Congress is to protect the American marketplace from anticompetitive, unfair and deceptive practices. Our responsibility includes ensuring that the nation's markets function free of unnecessary restraints that deny consumers the benefits of vigorous competition. We do not waiver from our commitment to this goal.

The FTC's budget for fiscal 1983 does reflect reductions in resources. Specifically, this budget request of $60.8 million represents a reduction of 145 workyears and roughly $7.9 million from the fiscal year 1982 continuing resolution levels of 1455 workyears and $68.8 million respectivly. At the same time, however, we are implementing management improvements and program refinements that I believe will enable the Commission to meet its statutory responsibilities at this lower level of resources. In fact, I believe that under this budget the FTC will be able to expand those efforts which enhance the operation of the marketplace to the benefit of the American consumer.

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[1] Commissioner Pertschuk dissents from the portions of the testimony suggesting that the agency's effectiveness will not be harmed by the President's proposed budget reduction, and that any changes are necessary or desirable in the Commission's legislative authority and regional office structure. Commissioner Pertschuk is filing a separate statement with the Subcommittee which specifically addresses and opposes the Commission's decision to close regional offices.

Management Initiatives

In the past six months we have made several organizational and management changes designed to increase the Commission's operating efficiency so that a reduction in workyear resources will not reduce program effectiveness.

Headquarters reorganization. ~~First,~~ the Commission's three major operating units--the Bureaus of Competition, Consumer Protection, and Economics--were reorganized earlier this year.[2] As a consequence of this reorganization, the role of senior-level management officials in all three Bureaus has been strengthened and clarified. In the Bureau of Competition, lines of reporting and responsibility have been clearly delineated to increase the accountability of the Bureau's managers and professional staff. In addition, a new unit has been created to deal more effectively with international antitrust matters.

In the Bureau of Consumer Protection, the number of major program divisions has been consolidated from 14 to 8, and the number of subprogram divisions from 42 to 22. This consolidation was accomplished by grouping together programs with similiar theories or objectives, a step that will promote more efficient management with less overhead.

The Bureau of Economics was reorganized to improve support to the agency's law enforcement activities, stengthen the management of its economic research and broaden the scope of the economic advice provided to the Commission. The recent reorganization formally recognizes the importance of providing economic expertise directly to all Commissioners. The Bureau's economic expertise is now available to Commissioners in deciding cases (just as the legal expertise of its Office of General Counsel has always been), and should result in more economically-rational decisionmaking.

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[2] The changes were announced on January 8, 1982, to become effective on February 2, 1982. Staff members of the Subcommittee were notified of the changes on January 8th.

I have also just approved a reorganization of the Office of the Executive Director--to become effective on June 14, 1982--and have supplied the Subcommittee's staff with requisite details. This reorganization recognizes the increasing importance of information resources to the Commission, and through consolidation and better management of them I expect to realize cost savings and increases in productivity.

Regional offices restructuring.[3] The other major management initiative involves the Commission's regional offices. Reorganization of the regional structure from the current ten to six regions will, in my judgment, permit the Commission to retain its regional presence throughout the country with reduced resources.

As you know, on October 21, 1981, the Commission voted to restructure its regional operations from ten to six regions and to reduce from 262 to 150 the number of workyears assigned to the regional offices. This decision was reaffirmed in January, 1982 when the fiscal 1983 budget was submitted to Congress.

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[3] Commissioner Bailey voted to reduce the number of regional offices solely for budgetary reasons.

On April 16, 1982, the Commission took steps to implement those decisions. On that date, the Commission adopted a reorganization plan which calls for the creation of six new regions. In order to minimize disruption, the Commission decided to retain six existing regional offices in the present locations. Those offices are in New York, Chicago, Cleveland, Dallas, San Francisco, and Atlanta. The Commission decided to close offices now located in Boston, Denver, Seattle and Los Angeles.

I believe that the Commission's actions with regard to the regions have been fully consistent with Presidential direction and with guidance we have received from the House and Senate Appropriations Committees and from our authorization committees and subcommittees. For example, our decisions were based on "those factors which affect an effective, although smaller (at least five offices) regional structure," as your Committee had directed, and we also undertook as the House Committee had directed, "an extensive review of those relevant factors which affect a viable regional structure." Further, at each stage of our decisionmaking process, I kept this Subcommittee, as well as other interested Members of Congress, informed of our actions. Mr. Chairman, attached to this testimony is a chronological record of communications with Congress on the Commission's regional restructuring decisions.

The Commission's decision of April 16th was based on an objective appraisal of restructuring alternatives. Because of obvious efficiencies, a major goal of the restructuring was to equalize and rationalize the workload among offices. To accomplish this goal, we considered the population in each area of the country determined by reference to 1980 census data, regional economic activity measured by the distribution of personal income, manufacturing activity and service industry activity, and the number of consumer complaints. The Commission also evaluated the quantitative performance and output of the incumbent regional offices over the past five years. Finally, we considered a proposal by the Executive Director outlining a suggested "model" for future resource use in the regions and adopted that proposed model as our new regional structure. And, Mr. Chairman, you and the members of this subcommittee have received copies of the relevant material relied on by the Commission in making its decision.

Mr. Chairman, determining how best to structure our regional operations so as to best serve the public has not been an easy task. But I am satisfied that the Commission has acted reasonably and responsibly in carrying out its duty.

Implementation plan. Our target date for completing the restructuring of regional operations is July 15, 1982. Meeting this deadline is extremely important in order to ensure that the costs associated with the restructuring (e.g., relocation costs and severance pay) are incurred in fiscal year 1982. Failure to meet our deadline may present the Commission with a tough dilemma: either withdraw our offers of transfers to adversely affected employees and pay a portion of their moving expenses, or absorb costs not budgeted for fiscal year 1983 and therefore risk significant reductions-in-force during that year.

Let me say, although the timing of our restructuring to some extent is based on budget considerations, my reason for conducting the restructuring is based on a determination to improve the overall management of the agency. Since I assumed the Chairmanship of the Commission on October 5, 1981, I have taken significant steps to provide more efficient and effective service for each taxpayer dollar spent in carrying out the Commission's mission. The impending restructuring of the regional offices is yet another step in this process.

Support services. Finally, Mr. Chairman, I would point out that we have achieved substantial reductions in our support services and anticipate achieving even further savings in the future. Reductions have been achieved, for example, by returning long-range planning functions to existing staffs in the three Bureaus and to the Office of the Executive Director. Other support functions and services are being evaluated, and several cost reduction projects are underway. These projects include contracting out for certain necessary services at less cost and reducing our reliance on outside consultants. Also, the level of required support services has declined somewhat as a result of the overall reduction in agency employment.

As a result of these management initiatives, we will be able to increase the proportional share of resources devoted to our Maintaining Competition and Consumer Protection Missions. Thus, the total number of enforcement workyears available to these bureaus here in Washington actually increase by 38 workyears over the fiscal year 1982 levels.

Program Initiatives

In addition to the management initiatives just described, a number of program initiatives are being implemented which will allow us to concentrate our resources on the most productive matters before the Commission and expand our most promising law enforcement efforts.

Maintaining Competition. In the Maintaining Competition Mission, all investigations and studies are currently being reviewed to determine if their pursuit continues to be in the public interest. Greater reliance is being placed on economic analysis at all stages in carrying out our enforcement of the antitrust laws. We plan to increase horizontal case development, particularly in the areas of price-fixing, boycotts, and other collusive activity by competitors.

In the health care area, for example, the Commission's program will continue to focus on concerted actions, such as price-fixing and boycotts, by which private groups of health care providers may seek to obstruct cost-containment programs. We also will continue to address possible conspiracies by groups of providers to prevent qualified practitioners from performing the services they are licensed to perform. The Commission also stands ready to provide Congress and other government agencies with information and advice on how and when competition can be used as an alternative or supplement to the multitude of existing regulations that pervade the health care industry.[4]

In another area, the FTC's Food Program enforcement efforts will continue, as the Commission evaluates acquisitions, mergers, and a wide spectrum of alleged anticompetitive restraints. Additionally, the Commission will continue to examine potentially restrictive practices in the distribution, wholesaling and retailing of food products. Historically, this has been one of the most litigation-intensive program areas in the Maintaining Competition Mission.

Consumer Protection. The Consumer Protection Mission also is undertaking program-wide initiatives. This budget reflects a reduction in resources devoted to rulemaking. As an alternative approach, we are pursuing the option of case-by-case enforcement in some matters, coupled with joint consumer and industry efforts to produce self-correcting adjustments of market restrictions where possible. Rulemaking will be retained as an on-going activity, but will be used only after careful study shows it to be more effective and efficient than other means.

We will expand the use of benefit-cost analyses of consumer protection issues as an aid to prudent case selection. For example, a protocol on deceptive advertising adopted by the Commission in 1975 will receive new emphasis to aid in the development of a concise, effective, well-targeted program to reduce false and deceptive advertising.

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[4] All activities in this area will have to be terminated if S. 1984 or S. 2499 as amended by the Senate Commerce Committee is enacted into law.

The Commission will continue to build on its experiences with the techniques of economic incentive remedies in place of "command and control" regulations, which are sometimes overly restrictive and burdensome and in some cases may even result in unintended anticompetitive consequences. In addition, using resources from all missions, we will expand FTC intervention before other regulatory agencies in an effort to reduce government regulation that may raise prices to consumers without producing compensatory benefits.

In the credit practices program, efforts will continue to implement legislated solutions to problems in the consumer credit market. Commission activities here include enforcement of laws designed to prohibit use of unlawful standards for denying credit, protect the confidentiality of consumer financial data, and prevent economic loss from computerized credit and debit transactions.

Our enforcement program will be more productive by combining rule enforcement with the more traditional enforcement of orders and guides. The reorganization of the FTC's Bureau of Consumer Protection will place responsibility for enforcing rules and statutes relating to many diverse subject areas in one program. We expect this to improve productivity by centralizing the expertise and skills critical to successful enforcement of past Commission orders and rules.

I also would like to point out, however, that the language now proposed in S. 2499 will also bar the Commission from investigating violations of consumer protection laws committed by licensed professionals, most notably in the areas of false and deceptive advertising. As I have stated before, this special exemption is without justification and diametrically opposed to the basic tenets of our free market economy and a sound public policy.

Economic Activities. In the Economic Activities Mission, we are proposing that the Quarterly Financial Report program be transferred to the Department of Commerce; thus, no resources are included in the Commission's budget for this program for fiscal year 1983. The collection of new data under the Line of Business program has been suspended pending an analysis of the benefits and costs of the program to determine whether it should be continued. For fiscal year 1982, this action, along with a previously-planned reduction in the sample size in the Quarterly Financial Reports program will lessen our reporting burden on the private sector by approximately 15 percent.[5]

The Economic Policy Analysis program will conduct more studies of government regulatory actions, such as in the health care industry[6] and with respect to motor-carrier rate-setting practices, and will begin a number of new studies of subjects such as competition in local service industries, special problems facing small businesses, and analyses of fundamental antitrust issues.

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[5] This goal is mandated by the Paperwork Reduction Act of 1980.

[6] Again, these activities will have to be terminated if proposals to eliminate FTC jurisdiction in this area are enacted into law.

Concluding Remarks

Mr. Chairman and Members of the Committee: I hope you can see from our budget submissions and what I've just said that the Commission is determined to carry out its statutory mandate, but in a more efficient manner and at less cost to the taxpayer.

Let me conclude my statement, however, by addressing briefly an issue of deep concern to me. Special dispensation or exemption from FTC authority for certain groups, including the professions, on a blanket or case-by-case basis is something I strenuously oppose. I do not mean to assert that the FTC's past interpretation of its statutes did not cause problems. Indeed, there is a justifiable fear among those regulated by the Commission that the FTC Act gives us too much discretion and consequently gives them too little certainty about the legality of their conduct. The solution to this problem, however, is to narrow the discretion, not to exempt entire industries such as the professions or to eliminate remedial tools such as preemptive rulemaking. This Congress is now addressing proposals to define more precisely the FTC's authority over such matters. An example is the Commission's proposal, to define statutorily our unfairness authority under § 5. I support this, as well as other similar steps to narrow the Commission's discretion.

To repeat the entire theme, I feel strongly that these positive management and program initiatives will enhance the Federal Trade Commission's overall operating efficiency, and even at reduced funding levels will allow us to pursue actively our Congressional mandates.

Federal Trade Commission Notification to Congress on Regional Office Restructuring*

• October 26, 1981	Notification to Senator Weicker of Commission intent to restructure regional offices, closing four of ten offices
• October 28, 1981	Hearings before House Subcommittee on Appropriations.
• February 8, 1982	Notification of closings as a part of fiscal 1983 budget to Congress
• March 2, 1982	Hearings before the House Subcommittee on Appropriations for FY 83.
• April 13, 1982	Notification of Commission meeting on regional restructuring
• April 16, 1982	Follow-up memorandum to Congress on Regions
• May 6, 1982	Further details on restructuring sent to Senate Appropriations Committee members

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* Final implementation of regional restructuring is scheduled for July 15, 1982.

Letter From Michael Pertschuk, Commissioner, Federal Trade Commission

May 24, 1982

The Honorable Lowell P. Weicker
Chairman
Subcommittee on State, Justice, Commerce, the Judiciary
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Re: FY 1983 FTC Appropriation and Proposed Regional Office Reorganization

Dear Chairman Weicker and Members of the Subcommittee:

On April 25, 1982, Chairman Miller of the Federal Trade Commission is testifying before the Subcommittee on the Administration's proposed budget for the Commission for the next fiscal year. As his prepared statement notes, I dissent from the Administration's proposed budget of $60.8 million and from the Commission's decision to support that extremely low level of funding. If adopted, it will prevent the Commission from adequately carrying out its statutory obligations.

The main purpose of this letter, however, is not to discuss the harsh impact of the FY 83 budget request on the Commission. Rather, it is to discuss the Commission's premature decision, taken without my support, to begin immediately to close four of the FTC's ten regional offices in anticipation of budget cuts in FY 83. The grounds for my opposition to the closing of these offices are fully laid out for the Subcommittee's consideration in the attached Congressional testimony that I gave last month on the question. Briefly, those grounds are that the [redacted] While I will not review all of these grounds in depth here, I do feel compelled to reply to Chairman Miller's continuing assertion, which appears again in his prepared statement, that the closings are consistent with the will of Congress.

In testimony before Congressman Rosenthal's Subcommittee, Chairman Miller stated that the Commission's decision last month to close four regional offices by July 15 of this year was "fully in accord with, and arguably required by, legislative direction" given by the Commission's appropriation committees. (emphasis added). Despite the urgent request made to the Commission by Chairmen Weicker and Smith on May 13 to stop the closings until the Congress acts upon the Commission's 1983 budget, Chairman Miller still maintains in his prepared statement that the closings "have been fully consistent with . . . guidance we [the Commission] have received from the House and Senate Appropriations Committees and from our authorization committees and subcommittees."

I have a different view of the legislative history of this issue. The Commission's decision to close the four regional offices in anticipation of substantial budget cuts was the culmination of a Reagan Administration initiative in the Spring of 1981 to eliminate all ten regional offices. Indeed, the Office of Management and Budget formally recommended to Congress that all ten regional offices be eliminated as a budget austerity measure for fiscal year 1982. Prior to this initiative, no one -- not Congress, not the last administration, not the Commission -- was even thinking about, let alone calling for, the abolition of the regional offices. Then Acting FTC Chairman David Clanton, in congressional testimony a year ago, strongly opposed the OMB recommendation as neither fiscally necessary nor wise. The Congress, in its wisdom, agreed with Commissioner Clanton, rejecting both OMB's recommendation to eliminate all the offices as well as its reduced FY 82 budget request that was the ostentible justification for the proposed regional office closings.

In rejecting these Administration recommendations for the current fiscal year, the House and Senate Appropriations Committees both affirmed their strong support for a viable, effective, and adequately funded regional office structure. At the same time, in response to the Administration's forceful budget austerity program and the need for there to be some cuts in the size of the regional office workforce for FY 82, they directed the Commission to "reevaluate" the regional office structure, and to maintain "at least five offices" if major changes were eventually deemed necessary. It is language compelling such a review in the FY 82 Appropriation Committee Reports upon which Chairman Miller hinges his assertion that the present closing of four regional offices is consistent with, or "arguably required by," the preferences of the committees. */

While this language in the Committee Reports clearly advised the Commission to reexamine its regional office structure in light of possible budget constraints, it by no means compelled the Commission to make drastic alterations in the structure. It did not say that regional office cuts or closings would be desirable, only that they should be considered because they may be necessary at some point. Further, a colloquy on the Senate floor between Senator Gorton and Chairman Weicker provides critical clarification of the meaning of the Senate Report, making clear that the Appropriations Committee intended the Commission to close down regional offices only if it did not receive enough money from the Congress to keep them open in FY 82. In pertinent part, the exchange went as follows:

> Mr. GORTON. It is my understanding that a majority of the Commission recommended that the number of regional offices be reduced from 10 to 6, strictly as a means of meeting a possible appropriations reduction to $61,123,000; and that this would require that the number of work years allocated to the regional offices be reduced from approximately 300 to 150 by the middle of fiscal year 1982, requiring a reduction-in-force of about 100 people. I further understand that in

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*/ Chairman Miller also relies on the action taken by the Senate Commerce Committee on May 11 approving authorized funding of only $60.8 million for the Commission in FY 83. The Commerce Committee approved this level without any discussion of the reasons for it and has not yet published its report accompanying the reauthorization bill. Thus it is impossible to know at this point whether the Senate Commerce Committee's action should be taken as a signal that it favors the elimination of regional offices. In any event, the Commission's authorization subcommittee in the House took opposite action last week, authorizing an FY 82 funding level of over $72 million for the Commission. At the markup Chairman Florio, whose bill authorizing this level was the one approved by the Subcommittee, said this level was necessary in order to give the appropriations committees and the Congress the flexibility to approve an appropriation that would be enough to keep all ten regional offices open in FY 1983, if that was its desire.

> the case of an appropriation of $68.1 million, as Senator KASTEN's proposed amendment would establish, the Commission would look anew at the question of whether the number of regional offices should be reduced. Is the foregoing consistent with the Senator's understanding of the circumstances?
>
> Mr. WEICKER. Yes, it is.
>
> Mr. GORTON. Does the report language which I have quoted reflect an intention by the committee to enjoin or encourage the FTC to, in fact, reduce the number of regional offices, assuming the $68.1 million appropriation is approved by the Congress?
>
> Mr. WEICKER. No, it does not. The language simply reflects the Committee's recognition that a reduction in the number of regional offices unfortunately might be necessary or prudent, even at the higher appropriation figure. Congr. Rec. S13274, Nov. 12, 1981.

Of course, the Commission finally did receive the $68 million appropriation that has been sufficient to keep all ten regional offices open this fiscal year.

Similarly, the Commission has said, in letters to the Congress signed by Chairman Miller, that its decision to cut regional office workyears in half and close down four regional offices was made "out of necessity," in direct response to the Administration's proposed reduction in the FTC's budget for FY 83. */ (Commission Letter to Chairmen Weicker and Smith, Oct. 23, 1981.) If the Congress appropriates sufficient funds to the Commission for next year, there will be, quite simply, no need to close regional offices.

Of course this subcommittee and the full Congress still have to act on the 1983 budget request of $60.8 million for the Commission and may yet, in its wisdom, find it necessary to appropriate that low amount. If so, the Commission will have to retrench enforcement efforts and carry forward its earlier decision to close its offices in Boston, Seattle, Los Angeles and Denver. But until and unless the Congress cuts the Commission's budget for FY 83 to that level, I am persuaded by the legislative history I have reviewed in this letter that it does not want the Commission to close any regional offices. It is precisely for that reason -- along with my confidence that the Congress will again reject OMB's funding request and pass an adequate budget for the Commission -- that I voted against the Commission's decision last month to begin immediately closing our offices in those cities even before our appropriations committees had considered our FY 83 budget.

Because I believe our regional offices have provided outstanding service to the American public and should not be

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*/ Chairman Miller's contention that the closings are a necessary and desirable management initiative irrespective of budget requirements is refuted by the regional offices' record of law enforcement accomplishments, as documented in my attached House testimony and Congressman Rosenthal's findings following his subcommittee's inquiry into the closings.

closed unless absolutely necessary, I was enormously gratified by the action initiated by Chairman Weicker and unanimously approved by the Senate Appropriations Committee on May 18, that would prevent the Commission from going forward with its regional office closings in this fiscal year. I also welcomed Chairman Miller's announcement of the Commission's intention to suspend the closing operation pending further Congressional consideration of the matter. It would faithfully reflect Congressional sentiment on this subject for the Commission voluntarily to reverse its April decision to close the offices, or at a minimum to keep the suspension of the closings in effect, until the Congress has had an opportunity to act upon an FY 83 appropriation for the Commission. I have no doubt this is the right course, for I have full confidence the Congress, in its wisdom, will pass a budget adequate to maintain the Commission's present enforcement capability and regional office structure.

I request that this letter, with attachments, be made a part of the Subcommittee's hearing record on an FY 1983 appropriation for the Commission.

Sincerely,

Michael Pertschuk

Michael Pertschuk
Commissioner
Federal Trade Commission

STATEMENT OF MICHAEL PERTSCHUK

Mr. Chairman and Members of the Subcommittee, I would like to begin my testimony on the Federal Trade Commission's regional offices with a statement from the chairman of the FTC:

> "We have greatly broadened the areas of authority and responsibility of our eleven field offices. The FTC was the most centralized agency, I think, of the federal government. We have now adopted a new procedure ... which ... I think, will broaden the ability of these field offices to serve the people, insure that the full focus of the government capability to help consumers will be brought to bear ... [and will mean that] we will not have to have individual consumers told that we ... as a Federal Trade Commission can do nothing for you and not take the next step and show them where they can have some assistance brought to their problem."

Mr. Chairman, these are the words of former FTC Chairman Caspar Weinberger, taken from a White House briefing in March

1970 on his consumer program for enlarging and strengthening the FTC's regional offices.

The process begun by Secretary Weinberger, of transforming the FTC's regional offices from investigative field stations into effective law enforcement entities, did not run smoothly. It required both an extensive effort to build and attract leaders and staff of first-quality, and the delicate nurturing of healthy working relationships between Washington and the regions.

Mr. Chairman, five years ago, just two days before I came to the Federal Trade Commission, I sat in the audience during two days of oversight hearings by your committee on the sorry state of the Commission's regional operations. I listened to complaints by the FTC's regional directors of excessive bureaucratic interference and delays caused by headquarters personnel in the effective carrying out of the FTC's mission at the regional offices. Your committee knows that improving the regional offices subsequently became one of the Commission's priority goals during the intervening years.

Like flexible and resourceful strike-forces, the FTC's regional offices have proved themselves efficient and productive. The reasons are simple. We learned what your committee knew: that smaller integrated offices, when well lead and suffused with team spirit, are freer of the rigidities of larger bureaucratic structures.

We struggled to build good working relationships with the regional offices, in order to strengthen the overall enforcement policy emanating from Washington without choaking off the energies, enthusiasm and commitment of the people in the field. We also worked very hard at maintaining our outreach and complaint-processing activities, particularly by building longer and stronger bridges to the consumer and small business communities in each of the regions. We tried to be especially sensitive to the antitrust concerns of small business. Overall, I believe that any fair analysis of the performance of these offices since these management initiatives were taken will reveal that we succeeded.

The facts of regional office accomplishments in providing direct service to the public and in enforcement speak for themselves. The regional offices respond to 120,000 complaints a year from consumers and competitors. Many of these complaints are local or regional in nature and would never be available to the FTC were it not for its presence in all the major population areas of this country. The great majority of valid complaints are easily resolved voluntarily by FTC lawyers on the scene. In other cases, complaints have uncovered serious violations requiring formal legal action, and have directly led to many of the Commission's most significant law enforcement cases in recent years.

The enforcement record of the rejuvenated FTC regional offices is an enviable one. In 1980 for example, with just 16% of the agency's total budget, the regional offices negotiated 61% of all the Commission's consent agreements; litigated 52% of all its complaints issued that year; and obtained almost 100% of the $51 million in consumer redress won by the Commission that year. Moreover, each regional office has contributed in major ways to this record.

Boston stopped the fraudulent marketing of a fast-selling and expensive quartz space heater, whose deceptive advertising campaign was exploiting the economic concerns of New Englanders over high fuel costs.

Chicago obtained 15 final orders in major consumer protection and antitrust cases in just three years.

Cleveland, in just one year, won consumer redress awards in auto defects cases exceeding the Commission's entire budget for that year. Overall, it obtained $100 million in redress between 1978 and 1981. This was enough to offset the total operating costs of all the regional offices for the next seven years.

Dallas obtained consent agreements from two major oil companies, Shell and Mobil, for, respectively, credit and advertising violations; successfully negotiated an end to unlawful credit discrimination against women by ATT; and is now involved in major land sales fraud litigation.

Denver obtained $6.4 million in redress for defrauded land purchasers in the landmark Bankers Life case.

Los Angeles began and was continuing a huge investigation of potentially anticompetitive practices in the $13 billion real estate brokerage industry.

New York curbed deceptive efficacy claims by the three national manufacturers of contraceptive suppositories for women, and also negotiated the recent consent agreement with American Motors Corporation prohibiting allegedly deceptive safety claims for the AMC Jeep.

Atlanta took forceful action against allegedly anticompetitive conduct in the food, construction, heating, and electrical trades.

San Francisco saved the blue jean wearers of America millions in lower prices through the Levi Strauss consent, the largest vertical price fixing case in the Commission's history.

And Seattle obtained $2.6 million in consumer redress in just the past two years and has been involved up till now in matters promising to deliver consumers millions more in benefits.

These are, of course, impressive examples, but they are still fairly representative of the progress the regional offices have made in enforcement capability. What we accomplished, to paraphrase our distinguished Chairman, was to extract from the regional office structure "the most bang for the buck" from the taxpayers' FTC dollars.

Mr. Chairman, the Commission last Friday made its decision to identify and close down four of its ten regional offices. They are, as you know, Boston, Seattle, Los Angeles, and Denver. This decision, unless reversed, sets in motion a process of dismantlement that will be painful, costly, and, in all likelihood, unnecessary. My position on this decision is known. I adamantly oppose it, unless the Congress does not give the Commission enough money next year to keep the present regional office structure alive. And it is premature at this stage to believe it will not.

From the day he arrived last October, Chairman Miller has been embarked on a zealous mission to eliminate all the regional offices, or as many of them as possible. It is important here to note that this pursuit by the Chairman has been a continuation of the Reagan Administration's initiative of last Spring to eliminate all ten regional offices. Prior to this initiative, no one -- not Congress, not the last administration, not the Commission -- was even thinking about, let alone calling for, the abolition of regional offices. In response to this pressure from the Administration, the Senate and House Appropriations Committees considered the possibility of a reduced regional enforcement structure for the Commission. The legislative history clearly indicates, however, that the Committees intended the Commission to close down regional offices only if necessary to comply with future budget restraints. Moreover, the Commission has consistently said, in letters to the Congress and OMB signed by Chairman Miller, that its decision last October to close down four regional offices was in direct response to the Administration's proposed reductions in the FTC's budget for FY 83. If the Congress appropriates sufficient funds to the Commission for next year, there will be, quite simply, no need to close regional offices.

Nevertheless, the Chairman himself has told the Congress that he personally favors the elimination of several regional offices whether or not there are fiscal pressures to do so. The Reagan Administration's FTC transition Report authored by the Chairman makes clear that, budgetary considerations aside, he and his top advisors have a perception of the regional offices as somehow functionally severed from the rest of the agency, out of control, and prone to trivial or misguided enforcement actions. I do not doubt the sincerity of this perception, but it seriously belies the present facts. To the extent it was ever true, I believe that the record of the last five years demonstrates that those offices have been carefully and prudently responsible to the policies set forth by the Commission, and innovative and resourceful in taking initiatives to carry them out.

The Chairman is one of the nation's leading proponents of cost-benefit analysis, yet with all due respect I do not believe his plan to eliminate regional offices would withstand even a primitive cost-benefit analysis. I make this last point because to the best of my knowledge there has not been a cost-benefit analysis of the Chairman's proposal to close down regional offices. From the very start they were the intended victims of the Administration's budget-slashing plans for the FTC.

The Chairman told Congress that the public will not lose the benefit of future accomplishments from the regional offices, because he promised that no enforcement program or matter will suffer as a result of any regional office closings. Despite his good intentions, that just can't happen. First, the Commission has been flatly told by its Executive Director that there will necessarily be a decline in regional office performance as a result of the planned closings. Second, it is inevitable that in the chaos of the closings several important enforcement matters will be dropped or seriously delayed (over and above the delays already caused by the post-election transition and the late arrival of Chairman Miller to the Commission). This happened in the 1975 closing of the Kansas City Regional Office -- admittedly not the Commission's strongest -- and it will happen this time. In short, the Chairman's admonition not to worry, his promise that there will be "business as usual" after the closings, does not reassure me and I doubt that it reassures this Committee.

The Chairman has said that he anticipates few problems with redistributing the workload among Headquarters staff and the six new "super" offices (really meaning larger geographical regions with fewer people than now in each region). I do not share his confidence. The harsh impact of the closing will fall not only on enforcement and the people in the offices targeted for extinction, but throughout the agency. The closing and reorganization of the regional offices will entail an exodus of able attorneys from the agency. What will happen to the enforcement matters they were working on? How easily can they be shifted to others? It will also require a large transfer of people and cases from region to region and region to Headquarters. All of this is bound to have a ripple effect that will be felt by almost everyone at the Commission. It undoubtedly will place extra strain on the workload of the staff in Headquarters and the surviving regional offices, who are already being squeezed by the Chairman's and the Administration's budget austerity program. And speaking of the people in Washington, will any of them, as well as staff outside of Washington, have to be uprooted and sent cross-country in order to achieve the right size and blend of skills for the remaining regional offices. If so, what will happen to the enforcement matters they were working on? Finally, we have heard much about what the closing of regional offices may save in these tight budgetary times, but how much will the actual process of abolition and reorganization cost the Commission and the American taxpayer in severance pay, relocation expenses, lost productivity, wasted resources in restaffing transferred cases, and other expenses?

I raise these difficult questions because I doubt that we have good answers to them. I doubt that we have gauged what the regional office closings really mean -- large scale disruption and dislocation of Commission work and peoples' lives. And for what? What are the benefits? They may be obvious to Chairman Miller, but they are not obvious to me.

I appreciate the need for good management and prudent spending in these times of budget uncertainty. And I have reluctantly acquiesced in the Commission's decision to close four regional offices in the event that the Commission truly does not have enough money next year to support the present ten. But I deplore the irrationality and the unfairness of presuming -- from the very beginning, without the benefit of full analysis of all the options -- that any cuts in our budget must come at the sole expense of the Commission's highly productive regional office program.

Mr. Chairman, in the summer of 1978 I spent the better part of a week in the Commision's Chicago regional office, sitting along side a wise and knowledgeable blind consumer protection specialist, and an earnest and deeply committed law school intern, answering the Commission's phones. I knew that the regional offices respond to well over 100,000 consumer and competitor complaints a year, but I wanted to get for myself a sense of the people and their problems which came to our offices. I saw the regional offices as the eyes and ears of the Commission, far closer than we in Washington are to the daily problems which concern American citizens. This, if I am not mistaken, is a theme of the "New Federalism" which is so dear to the heart of our President.

The calls came in, calls from real people, with real problems. We heard from the small businessman harassed by larger competitors, from a family cheated by a mail order ad for a business opportunity, a substantial sum paid -- the family's savings -- the packet of materials worthless. We heard from people seeking advice on their rights to credit, and from small businessmen wanting to know their rights against unfair competition.

I learned that even in those cases in which we were not quite the right agency, we could help with quick, sound advice to steer people to the right place. Often a quick informal call, a simple inquiry was often enough to cure an arrogant seller's refusal to deal with the consumer's complaint.

And, finally, I remember a call from a woman with a strong, clear voice, pained and indignant that she had not only been denied credit by a leading department store in a Chicago suburb but had been refused, as was her right, disclosure of the reasons for denying her credit. It turned out that we had received many complaints about the same firm and indeed the Chicago office was in the process of investigating it. Although in too many of the cases we were not able to help, in this case we were able to assure the woman that help was on the way. I don't think I'll ever forget her last words to me: "There are only two decent things in my life -- my son and my credit."

Mr. Chairman, the citizen problems in which our regional offices deal are not petty or trivial. They're essential, in many cases, to the belief of the ordinary citizen that he or she can have access to justice. If that woman had lived in Boston or Seattle with no regional office, do you think she would have called Washington or remained embittered?

Mr. Chairman, time is running out for thousands of consumers in Boston, Seattle, Los Angeles, and Denver with problems similar to this woman's. By mid-May FTC employees in these cities must decide whether to come to Washington or be RIFed. By July 15, the offices in these cities will disappear. These deadlines are unreasonably short, but they are real. If the Congress disagrees with the closing of these offices, it must act immediately to keep them open. Soon it will be too late.

INTRODUCTION OF ASSOCIATES

Mr. MILLER. Thank you, Mr. Chairman.

To my far right is Dr. Robert Tollison, Director of the Bureau of Economics. To his left is Mr. Timothy J. Muris, who is Director, Bureau of Consumer Protection.

To my immediate right is Dr. Thomas Campbell, Director of the Bureau of Competition. To my left is Dr. Bruce Yandle, who is Executive Director of the Commission and to his left is Jim Williams, who has been the Chief Financial Officer of the Federal Trade Commission for several years, and I am pleased to announce today I am appointing him to be Deputy Executive Director of the Commission.

Senator WEICKER. Good.

Mr. MILLER. Sir, as you indicated, I would like to just summarize, briefly, if I could, a few points about our testimony.

As you know, sir, the Commission is charged with promoting competition and protecting consumers. With $60.8 million representing 1,310 work-years, I think we can do the job that Congress has given us and I think we can do it well.

FTC PROGRAM INITIATIVES

Let me speak first to program initiatives. In the competition area, we are trying to place greater reliance on economics and case selection and trying to focus on traditional law enforcement objectives.

With respect to consumer protection, we are also placing greater reliance on economic analysis and case selection. We are placing less reliance on rulemaking, largely because we have so many rules already in the pipeline and are focusing on traditional fraud and deceptive practices.

In the economics area, we are trying to make our work more relevant to the Commission's major enforcement activities and we are integrating the work of the Bureau more closely with the work of the lawyers in the enforcement areas.

As you know, we have proposed terminating the merger report. We have suspended data collection for line of business program pending an analysis that Dr. Tollison will be forwarding to the Commission on July 15 and we are transferring to the Commerce Department the QFR program.

FTC MANAGEMENT INITIATIVES/REORGANIZATIONS

I would like to speak on some of our management initiatives, if I could. We want to make the agency run very well and have taken several steps, I think, to this end. First, we reorganized the bureaus. In the Bureau of Competition, we clarified reporting patterns; in the Bureau of Consumer Protection, we consolidated some programs and reduced overhead. In the Bureau of Economics; we tried to tailor the structure to more adequately reflect the needs of the law enforcement bureaus.

Second, I have reorganized the Office of Executive Director. I am pleased to announce that today. This reorganization will become effective on June 14 and we have given staff of the subcommittee details about this reorganization.

There will be in this office two deputies and, as I indicated, Jim Williams will be one of those. He will be the Deputy in charge of management, including budget and personnel matters.

One part of our reorganization is to emphasize informational sources of the Commission, consolidate them to make them more effective. I think this will realize cost savings and productivity increases.

Third, we tried to reduce overhead. We eliminated the Office of Policy Planning. We have tried to rely on policy planning in the various offices. We have reduced our reliance on consultants and as a result, the proportion of the enforcement resources has actually risen from 67½ to 70 percent.

REGIONAL OFFICE RESTRUCTURING

The fourth step has been to reorganize our regional operations. Sir, the materials I have provided to you, including an attachment to my testimony, I think have indicated some of the major milestones here. But the bottom line is that on October 21, 1980, pursuant to your request for us to indicate to you our budget priorities, we voted to reorganize the regional offices and have as a result 6 regions rather than 10.

On October 26, I sent you a letter responding to your request about this, indicating that that was one of our determinations in the budget figures that were transmitted.

Then we had hearings. We did not have an opportunity to have hearings before you, sir, last October. However, we did have hearings before the House subcommittee. Then, on April 16, the Commission, after further discussions, after looking at the report language, after my visits and visits by my senior staff to the individual regional offices, and after alerting interested Members of Congress ahead of time, met to decide on the regional structuring. The Commission voted for regional restructuring along the lines we have indicated to you by letter and in followup telephone conversations.

REASONS FOR RESTRUCTURING REGIONAL OFFICES

You might ask, why should we restructure the regional offices? There are two reasons: Just to be candid about it, I think Commissioners Pertschuk and Bailey would say it is only for budget reasons. I think however, Commissioner Clanton and I would say it is for management reasons.

My emphasis on management reflects the fact that you are going to hold me more responsible than anyone else for the management of the agency. It seems to me there are three issues. One is our need to equalize the workloads of the various offices. There is a very wide variance in the workloads, or potential workloads, that each of the offices faces. Second we need to think about the sizes of individual offices and I think here considerations of minimum efficient sizes and productivity requires the offices themselves be pretty much of equal size.

And the third question is, why cut back at all. It seems to me distance makes communications poor. There is a need for quick access to the commissioners in important cases and the tight time frames in the Hart-Scott-Rodino process. Many cases are large, for example, Mobil Marathon, and many cases are national in scope. Also, there have been, unfortunately, some mishandling of cases in the regional offices.

If you look at the aggregate data, I must admit, the regional offices produce a lot of activity. But unfortunately, those raw data do not distinguish the large cases from the small cases, the good cases from the not-so-good cases, and it doesn't reflect the amount of supervision that is involved from headquarters with respect to cases that are generated at the regional offices.

FEWER RESOURCES AND FEWER REGIONAL OFFICES

You might ask, how can we cope with fewer resources for the regional offices and fewer regional offices to do our job? I think there are several answers. One is to have better management, we are going to improve information from the regional offices with respect to their problems, the trends and activity, the business activity and the problems they address. We are going to get more specific policy direction to the regional offices. For example, we are going to have the regional office directors here in Washington to exchange views.

REGIONAL OFFICES COVERAGE

I also want to emphasize regional coverage. In my visits to the regional offices, I was struck how parochial regional offices often are.

Let's take a hypothetical without talking about a particular regional office. If there were a regional office in Omaha that covered a 6- or 8-State area, typically most of the cases would be either Nebraska cases or Omaha cases. I think it is important for regional offices to reflect the whole region, not just the particular city or State in which they are located.

We are going to work closely with State and local authorities and we are planning to install an 800 toll-free number.

We are also going to solicit other suggestions.

We are going to have regional seminars, more frequent appearances of FTC officials, and we are planning to be more effective in following through on complaints and suggestions.

RESTRUCTURING IMPLEMENTATION

Sir, with respect to the implementation, I am in something of a quandary about this. With respect to restructuring, I think it is badly needed, again, for management reasons, and perhaps budget as well.

The President has indicated guidance, budget guidance. The House Appropriations Committee, in their report last year indicated guidance of the type that I thought our actions were consistent with as you did sir, in your subcommittee appropriations report of last year. Your report contains language which reflected—I am not a lawyer, but my reading of it indicates that you did contemplate some analysis of the regional office structure and perhaps some restructuring of the regional operations. In other words, what I am saying, sir, is I believe our activities were consistent with the language contained in the appropriations report, but I surely do welcome the chance to talk in more detail about that today.

On the other hand, we have been asked by you and Congressman Smith and a few others to delay implementation. So I hope you can empathize with my dilemma in that it is a no-win situation.

IMPLEMENTATION NEEDS TO BE RESOLVED QUICKLY

Sir, let me stress the need to resolve this matter quickly. Frankly, the work of the affected regional offices is not moving forward. The personnel there are under considerable duress and I think that is highly unfair to them. Their careers are in jeopardy. There is uncertainty about their location of employment. I just indicate to you as of the date which we agreed pursuant to our conversation, I suspended all additional work on regional offices, we had had 18 acceptances for the four affected regional offices for transfers to Washington.

The out-placement counseling is on hold and negotiations with the labor unions pursuant to this matter have been halted.

So let me say in summary, Mr. Chairman, that you have my word that we are committed to meeting our statutory mission. I think we can do it effectively and efficiently at lower cost to the taxpayer.

My colleagues and I will be glad to respond to any questions.

NEW ENGLAND REGION

Senator WEICKER. I am sure we will work this out, but I will tell you the first rule of thumb—first rule of thumb—don't ever close the regional office in the chairman's region. That is a little piece of guidance.

Mr. MILLER. I will write that down.

Senator WEICKER. We are a step ahead of the game at that point.

Mr. MILLER. It turns out, Senator, 55 percent of the people in Connecticut are closer to New York physically than to Boston.

Senator WEICKER. Mr. Chairman, believe me, I listen with great eagerness to any advice you have to give and your expertise. I don't think a lecture on the State of Connecticut is in order.

The fact is the Boston office relates to a distinct region called New England, and that region does not define itself or relate itself to New York City. The only part of the region, that relates to New York City, would be southwestern Connecticut. Aside from that, everything from—I would say Bridgeport, Conn., above doesn't relate to New York. It relates to Boston.

To put it in sports language, everybody from Bridgeport below roots for the New York Yankees. Everybody from Bridgeport east roots for the Boston Red Sox.

So, I sit here speaking not for Connecticut, rather for the distinct region. I know that Senator Gorton is equally concerned insofar as the Seattle office is concerned.

I have no doubt about your concern relative to Los Angeles and Denver, but in any event, certainly those two are the ones that seem to prove the greatest problem.

I suppose the other difficulty that we are encountering is the perception that you are somewhat less than enthusiastic about the mission of the Federal Trade Commission. So when you team up that perception with the regional office closings, we have a problem.

MERGER REPORT

I notice, for example—did I hear in your statement, what merger activity, did you say the merger study is being dropped?

Mr. MILLER. No; Congress has asked us to perform a study of mergers in the petroleum areas. You may be referring to a publication we have called the merger report.

Senator WEICKER. That has been transferred.

Mr. MILLER. It has been terminated. It is actually largely a compilation of data that is available elsewhere. We didn't see it necessary to spend taxpayers' money to replicate something that is fairly widely available.

Senator WEICKER. Then I read in your statement under maintaining competition mission, "All investigations and studies are currently being reviewed to determine if their pursuit continues to be in the public interest."

Mr. MILLER. Right.

MERGER ACTIVITY

Senator WEICKER. Let's get one thing understood, because it doesn't take any great genius on your part or mine to understand what is going on in the world around us. I'm speaking now as the chairman of the Small Business Committee. I have never seen so much merger activity in my life and I might add, as a total believer in the free market and the least possible Government interference: I want to tell you, I think the concentration of economic power that is going on around us right now is going to be devastating as far as the future is concerned. If there is ever a time the Federal Trade Commission ought to be out there, it is right now, and the same holds true of the Antitrust Division in the Justice Department. It seems that neither is doing its job.

If anybody wants to merge in this country today, anybody can merge. That is really what it is, if you want to merge, merge.

Now, Mr. Chairman, that is the perception. It is my perception. It is the reality of reading the newspapers everyday and it seems to me that is exactly what you are there to assure. One of the mandates that sits on you is to make certain whatever does take place is in the public interest. The laws are not being violated and that everyone, you and Baxter, whom I suppose are sort of the figureheads of this, have left the ballfield. When you combine that with the logistics and the statistics of the budget proposal, I wonder whether you are there to close down this agency or to have it work.

Mr. Miller. Mr. Chairman, if I could respond to that, I think perhaps that perception is wrong. First of all——

REGIONAL STRUCTURE

Senator Weicker. Would you like to have all commission activities in Washington, D.C.? If you had your "druthers," would you like to have it all here?

Mr. Miller. At this point, I would not.

Senator Weicker. Can you foresee that?

Mr. Miller. No; I would not anticipate coming back next year or the following year and asking that the remaining regional offices be closed. I am convinced that a regional presence is a good idea and despite the problems of communication, and so forth, that the taxpayers moneys would be well spent in effectively, efficiently running a regional operation. I do believe, sir, that the regional operation that we have needs to be modified along the lines the Commission has voted.

I promise you, I am going to give it the best go I can possibly give it. And speaking of efforts, my colleagues and I have worked very hard to bring about the kind of management improvements that are necessary, I think, to give the taxpayer a bigger bang for the buck.

MERGER ACTIVITY

On the question of mergers, we first have to look to the law, and there are some mergers that do not contradict the law. And in those cases, we should not be standing in the way if we are going to carry out the congressional mandate.

Mergers that do have anticompetitive consequences, however, are closely reviewed and those where we conclude the effect would be to significantly limit competition or tend to create a monopoly, we act to enjoin them.

There is a lot of activity at the Commission that is consistent with the point you made, sir, and that is merger activity is up, but we do not have the final figures on exactly the precise amounts or assets represented. We do have the Hart-Scott-Rodino figures. They have been up somewhat, these apply only to large mergers, not just to small mergers, those figures are up somewhat, but do not represent a great, tremendous merger wave.

COMPETITION MISSION RESOURCES

Senator Weicker. But the fact is that the activity is up and I suspect you are going to find it is up a great deal this year, even more so in past years, while at the same time you are decreasing your maintaining competition function, it has gone from 749 personnel and $31,589,000 in 1981—is that correct?

Mr. Williams. Yes, that's correct.

Senator Weicker. To 615 positions and $28,689,000. That doesn't even throw in the inflation factor which obviously is less. That is a substantial reduction in resources, both personnel and dollars, while the activity is increasing.

Mr. MILLER. What we have done there, sir, frankly, is one of the benefits of our regional restructuring. I cannot speak to 1981, but vis-a-vis our program budget for 1982, the number of resources devoted to the maintaining competition mission at headquarters actually will be greater for 1983 under the proposed budget than this year.

Also, I would just indicate to you a number of cases that this Bureau had been working on: the *Cereals* case, the *Oil* case, and the *Auto* case. These investigations have now been closed, and the result will be to free up those extra resources to look more closely at current merger activity.

PHASING OF REGIONAL OFFICE CLOSINGS

Senator WEICKER. You are correct when you say we look to you for management of the Commission. It would be grossly unfair for us to hold you responsible in that effect and then take away from you the authority to manage. My suggestion, however, would be on this matter, which is sensitive both in terms of policy, and I think I have expressed the sensitivity as best I can as to the perception, and sensitive in terms of the particular areas to be served, that the staffs should sit down and possibly implement this in two stages. There is no reason why the whole thing has to happen in the year 1982.

By the same token, it might very well be advisable to look at it, to try the closing, and this might cause you to revise your list as to what is going to be closed, but to decide—maybe not—but to decide whether or not, in effect the closing did not create any sort of a damage to the mission of the Commission. That is not something you and I are going to argue out to its final conclusion here this morning. I just want to tell you—and, again, let me repeat, if Senator Rudman were here, he would be a lot rougher on the subject than I am—he is in greater proximity to the Boston office. I want to make clear from Connecticut's point of view, the need is not all that great. But for New England it is, there is just no question about that.

The Senators from Washington feel very strongly about the Seattle office. That is a difference between night and day, between the northwest and California. It is not just one and the same thing.

Be that as it may, without getting into every dotting of i's and crossing of t's, you and I sit here haggling over this, I think there should be the opportunity to sit down and discuss it in detail. We will not accept—this much I can tell you right now—Congress will not accept the closing of these four offices in this budget. That being the case, and neither do I think it would be fair to say you shouldn't be able to go ahead and proceed along the lines you have stated. Like any good piece of Government work, I think the time has come to sit down and try to work it out. That will be my suggestion.

Mr. MILLER. Well, Senator, I welcome the opportunity to sit down and discuss this with you and your staff and for our staffs to exchange views on this, but, frankly, it is very difficult for me. I have been given the responsibility by the President and confirmed by the Senate to manage the agency in ways to realize the biggest bang for the taxpayer and, frankly, sir, the problem you identify—Florida, for example, would probably characterize itself as having a different population from the rest of the southeast and in the Atlanta regional office.

The same kind of dissimilarities cross regions. If you sprinkle more regional offices, you have the same kind of problem because even getting closer and closer to smaller regions——

Senator WEICKER. Mr. Chairman, I think you have missed the point. I conceded the fact I think the Commission ought to be able to pare back on some of its regional offices. Nobody is talking about adding regional offices. We are talking about phasing something in.

Unfortunately, and this is not of my doing and indeed as the chairman knows: I have stood on the Senate floor and withstood some attacks from colleagues of mine. There are more of them now that honestly feel neither the administration nor you are committed to the legal mandate of your Commission. That is the problem, and your statements, your public statements, certainly give aid and comfort to that perception. These closings give aid and comfort to that perception.

The budget gives aid and comfort to that. I suppose what I am saying, if I am beating out their—I have a strange feeling right now the Congress is not prepared to go ahead and put the FTC out of business, or if we are going to do so, let's go ahead and repeal the authorizing legislation and put you out of business. Fair enough? But we are not going to do it by way of the back door.

IMPORTANCE OF FTC ACTIVITY

Mr. MILLER. Sir, let me just reiterate, I have no anticipation of trying to close down the agency. I surely would not have left my job with the Vice President and with Dave Stockman to have done that. I think that you will see, if you have not already, that we are engaged in a great deal of activity in the public interest.

We just published a few weeks ago a progress report and asked my senior staff upon the anniversary of my being there 6 months to indicate what progress we had achieved, and I think it is an impressive document. It speaks also to the various and myriad problems that the agency faces and the need to work on them.

I regret, if there is any impression left with anyone that our secret goal is to dismantle the agency, we even have Dave Stockman no longer saying that sort of thing. I assure you we will move forward in that effort. It is consistent, though, with my strongly held belief that the Federal Trade Commission is an important agency, has important work to do in the public interest, that drives my wishing to make these management changes, and my true belief, sir, that they need desperately to be made.

I would welcome an opportunity to discuss this further with you and with your staff and see what sort of additional pieces of information and the guidance that, of course, is rightfully given by the Congress in these matters. But right as of today, I am receiving conflicting guidance.

LANGUAGE ON REGIONAL OFFICES

Senator WEICKER. The language at present states, what, that the offices won't be closed?

Ms. INGRAM. That's right.

Senator WEICKER. That's the present language.

Ms. INGRAM. Yes.

Mr. MILLER. Surely with the urgent supplemental language, there will be an opportunity for Congress to resolve the issues, I guess, one way or the other. That would give us a clear signal, but even with that, it is hard to predict exactly what is going to happen.

Senator WEICKER. I was just talking to counsel and counsel indicates to me we should be up on the floor today, what, at 2 o'clock? I don't know of anybody who is going to try to knock out the language the committee put in. What then?

Mr. MILLER. Sir, I suspect we will need to discuss the matter.

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. I have questions that I am going to submit for the record. I would appreciate it if during the course of the next 48 hours, you keep yourself available and I to you, to communicate on the issue. If, indeed, you are right, if we hit the floor of the Senate and somebody takes that and knocks it out or has some amendment up there in a different direction, then you have no problem, you can go ahead. If not, we are going to get in some sort of a standstill here. That is the worst of a management position. I will submit the rest of the questions for the record.

CLOSED SESSION

In accordance with rule 25, the subcommittee will go into closed session to discuss the conduct of foreign relations of the United States of America and we will move the closed session to room S–407 here in the Capitol.

[Whereupon, at 10:30 a.m., the subcommittee proceeded in closed session.]

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

Questions Submitted by Senator Lowell P. Weicker, Jr.

AUTHORIZED POSITIONS

Question: Is it correct that in fiscal year 1981, 1,675 positions were authorized to the Commission and that the end-of-year ce[illegible]g for fiscal year 1983 is 1,235--a reduction of 26 percent?

Answer: The reduction is actually 22 percent based on the revised fiscal 1981 full-time permanent ceiling of 1,587 and fiscal 1983 full-time permanent ceiling of 1,235. The original fiscal 1981 full-time permanent ceiling was 1,665; the reduction to 1,235 in fiscal 1983 represents a 26 percent decrease.

COMPLAINTS

Question: The number of rulemakings in which the Commission is engaged has been reduced. Has there also been a substantial reduction in the number of complaints received by the Commission?

Answer: Based on incomplete data for fiscal 1982, consumer complaints received at headquarters seem to be decreasing while estimates made by regional offices for fiscal 1982 indicate an increase.

Question: What is the number of total letter complaints received by the Commission in fiscal years 1980 and 1981, and what do you anticipate in fiscal year 1982?

Answer: The Commission received 50,814 letter complaints in fiscal 1980 and 59,479 letter complaints in fiscal 1981. Based on the data for the first six months of fiscal 1982, we project receiving approximately 70,000 letter complaints in fiscal 1982.

Question: What percentage of these complaints do you estimate will be received by the FTC regional offices?

Answer: The regional office share of written complaints in fiscal 1982 is estimated to be 70 percent up from 58 percent in fiscal 1981.

BOSTON AND NEW YORK OFFICE WORKLOAD

Question: How many complaints are currently received by the Boston regional office? What is the number of staff years currently authorized for Boston?

Answer: In the first six months of fiscal 1982, the Boston regional office received 546 letter complaints and 2,900 telephone complaints. The Boston office is authorized 22 workyears for fiscal 1982 pending regional office restructuring decisions.

Question: If the Boston regional office closes on July 15, is it your intention that complaints currently processed in Boston will be handled in the New York office? How many complaints are currently received by the New York office?

Answer: Not all complaints will be handled by the New York office. We anticipate that through other mechanisms, such as an "800" toll free number, headquarters will receive an increased share of those consumer inquiries. The New York office is projected to receive approximately 20,000 written and telephone complaints in fiscal 1982, the same level as in fiscal 1981.

Question: How many positions are currently authorized to the New York office?

Answer: The New York office is authorized 44 workyears for fiscal 1982 pending regional office restructuring decisions.

Question: Do you anticipate that complaints will be better handled and promptly handled under this situation? How many attorneys will be assigned to New York? How many investigators? How many clerical positions?

Answer: Yes, we expect that our present complaint processing performance will be maintained. As stated above, the possible implementation of an "800" toll free telephone number will channel a number of consumer inquiries to Washington, where they would be handled as expeditously as before. In addition, we will undertake studies to determine ways to better integrate all consumer complaint data to improve our law enforcement efforts. Under a possible 30 workyear allocation, the New York office would have 19 attorneys, 4 paralegals and 7 clerks.

INVESTIGATIONS INITIATED IN THE REGIONS

Question: What percentage of your investigations are initated in the regional offices?

Answer: In fiscal 1981, the regions initiated 58 percent of the initial phase investigations in the Competition area and 68 percent of the Consumer Protection initial phase investigations. However, these percentages do not reflect the size, complexity or importance of individual investigations. Headquarters resources in the past were devoted to large ongoing antitrust investigations (e.g., Exxon, Cereals case, etc.) and rulemaking. In addition, of the total time reported in fiscal 1981 to initial phase investigations, the headquarters office accounted for 53.3% of the total and the regional offices accounted for 46.7%.

TRAVEL FUNDS

Question: Have you increased travel funds in order that the D.C. staff may get out to the States and investigate problems?

Answer: Per capita spending on travel in fiscal 1983 will increase from the fiscal 1981 actual levels. Reductions in rulemaking and other travel intensive case efforts, and fewer numbers of staff will allow all necessary travel to support investigations in the field. We continually explore more efficient ways to utilize travel funds and will apply improved travel management techniques and will continue to contact state and local government agencies to extend our investigational capabilities.

Question: The regional office reorganization proposes larger geographic coverage for each of the remaining regional offices. Presumably, the Washington Office will also handle more cases from regions. Yet, there is a reduction in travel funds. Why?

Answer: The total agency travel budget decreases from $1.3 million in fiscal 1982 to $1.0 million in fiscal 1983 but as noted above, per capita spending on travel increases from the 1981 actual levels.

As stated above, we expect to more efficiently use travel funds and to utilize contacts at the local level to offset the decrease.

AUTHORIZATION LEVELS

Question: The Commission budget has already been reduced. If the current budget request for $60.8 million in fiscal year 1983 is approved, it would constitute an 11 percent reduction from 1982 appropriations and a 15 percent reduction from 1981 levels. In real terms--considering inflation-- what is the actual reduction from 1981 levels?

Answer: While the reduction from fiscal 1981, considering inflation, is estimated to be 19%, we feel that the reduction is offset by recently implemented management and program changes and careful case selection. Further, many large resource intensive projects have been concluded such as the Cereals case, the Oil Industry investigation and the conclusion of resource intensive rulemaking proceedings.

Question: Your Senate authorization committee has reported a bill which would authorize appropriations at $60.8 million in 1983; $55.0 million in 1984; and $50.0 million in 1985. Was this bill endorsed by the Full Commission?

Answer: The bill itself has not been endorsed by the Commission. However, the Commission (with Commissioner Pertschuk dissenting) has endorsed an authorization level of $60.8 million for FY 1983, $55.1 million in FY 1984 and $54.6 million for FY 1985, with some limited upward flexibility (e.g., 10%).

Question: If you have only $55.0 million available in 1984, and $50.0 million in 1985, what kind of program will the FTC have? What options have you considered for staffing and program levels? Will you reduce the regional offices from six-to-three-to-none?

Answer: While no specific proposal has been developed, I anticipate productivity will be maintained because of management changes such as the reorganization of Bureaus and offices and more careful case selection and supervision. These actions among others will free up underutilized workyears. I do not anticipate changes in the number of regional offices.

ANTITRUST PROGRAMS

QUESTION: Given the reduction in Justice Department antitrust activity, there has been increased concern in the Congress and the small business community regarding the FTC activities in this area. However, the budget reductions in the competition mission do not give us much optimism that the Commission intends a more active role. In what areas will the FTC focus attention?

ANSWER: We believe that the budget reductions in the competition mission, as elsewhere, can be accommodated by more careful economic and legal analysis of proposed investigations and cases before they reach the stage of major financial commitment. Proceedings which survive such analysis will achieve as much -- or more -- in terms of promoting a competitively operating economy, and thus consumer welfare, than has previously been achieved at higher funding levels.

With regard to the particular concerns of the small business sector of our economy, we will seek to focus our enforcement attention on Robinson-Patman Act cases which threaten real injury to consumers and competition. We will look for evidence of the market power which might make such injury possible and avoid the technical cases too often brought in the past against small businesses themselves. We also will seek to direct our actions in the resale price maintance area to stress cases where such activity is in aid of horizontal restraints, as contrasted with instances where resale price maintenance may be employed procompetitively by a manufacturer to support and reward the service-providing and promotional activities of retailers (often small businesses) and prevent free-riding by retailers which decline to engage in such activities.

Further we will stress enforcement against mergers and acquisitions which actually pose a threat to competition, as well as enforcement against collusion among competitors.

PRIORITIES

Question: The budget justification describes the market power program as the primary vehicle within the competition mission for the identification, analysis and prosecution of cases challenging the illegal acquisition, maintenance, or exercise of monopoly power. Yet, this program is being reduced by 42 percent in 1983. On what basis does the Commission rank its program priorities in the competition mission?

Answer: Approximately eighteen months in advance of each fiscal year, the operating divisions propose to the Commission, by program decision units, anticipated resource needs for the fiscal year. Each Commissioner ranks programs indicating his or her priority. The total of the individual rankings sets the program priorities then submitted to the Office of Management and Budget and subsequently to the Congress.

The Competition mission is comprised of eleven programs. From time to time, activities of the Bureau do not fit squarely into one of the eleven programs, yet they are valid and necessary activities. For a time, the market power program became the repository for various projects involving planning, industry analysis and economic studies. The program reduction reflects the closing or reallocation of many of these projects. It does not indicate a reduction in resources to, or a lower priority for, anticompetitive problems resulting from the exercise of market or monopoly power. Bureau of Competition budget managers have been examining the issue pinpointed by this question and will be proposing several programmatic changes in future budgets.

DISTRIBUTION OF STAFF REDUCTIONS

Question: The Commission's budget request for the Competition mission is $28,689,000 and 615 staff years. This constitutes a reduction of 18 percent from fiscal year 1981.

What portion of the reductions in fiscal year 1982 and those proposed for 1983 have occured in Washington, as opposed to the regional offices?

Answer: The following charts indicate fiscal 1982 and 1983 budget reductions from fiscal 1981 for the Competition Mission. The figures for 1983 reflect the Commission's proposal to close four regional offices during fiscal 1982. Plans to carry out that proposal have been suspended.

	Fiscal 1981	Fiscal 1982	% change	Fiscal 1983	% Change
BC	357	318	-11%	334	- 6%
BE	64	67	+ 5%	70	+ 9%
RO	114	106	- 7%	54	-53%
Subtotal	535	491	- 8%	458	-14%
Support org.	214	174	-20%	157	-27%
Total	749	665	-11%	615	-18%
Headquarters*	635	559	-12%	561	-12%
Regions	114	106	- 7%	54	-53%
Total	749	665	-11%	615	-18%

* Includes BC, BE and support organizations (OGC, Administration, etc.)

CONSUMER PROTECTION CUTS

Questions: The enforcement program in the consumer protection mission is being cut by 15 percent in 1983. Marketing practices is being cut 19 percent; credit practices is reduced 16 percent; and advertising is down by 13 percent. What impact will these reductions have?

Answer: Better case selection and management will avoid the expenditure of resources on cases and rules that actually harm consumers. Therefore, the decrease in resources for the Commission's enforcement program will not adversely affect the Commission in carrying out its statutory responsibilities.

As an example of better management, enforcement of case orders will be handled in one office as opposed to headquarters and ten regional offices. This will reduce review time and enable the Bureau Director to exert more control over the direction of enforcement efforts. Rule enforcement will continue to be handled by all regional offices, but will be centrally coordinated by the Associate Director for Enforcement at headquarters. Further, all rule enforcement at headquarters (except credit related activities) will be placed under the enforcement program. These changes should result in more efficient use of enforcement resources. We also will increase our reliance on less formal means of obtaining desired compliance results. Thus, we anticipate little, if any, overall change in the degree of compliance with our orders and rules.

With respect to marketing practices, the FY83 decreases reflect revised assumptions regarding ongoing rulemakings. The marketing practices program contains three proposed, and one recently vetoed, trade regulation rules that will be entering their final stages of Commission consideration and judicial review, if promulgated (Hearing Aids, Vocational Schools, Health Spas and Used Cars). The consideration and review process will not require as many workyears for FY83 as originally planned. Moreover, unless all proposed rules will make it through the entire process, are promulgated, and become effective, significant resources will be available.

The reduction in credit practices represents primarily a decrease in regional office activities and in rulemaking efforts. *Regional office* activities consist primarily of complaint/inquiry processing, with some enforcement activity, and will be consolidated in the remaining regional offices and the Division of Credit Practices. Because the bulk of the staff work on the Commission's two major rules in the credit area has been completed, we will be able to reallocate those resources to complaint/inquiry processing and selected enforcement activities.

CONSUMER PROTECTION MISSION

Question: The Consumer Protection Mission was staffed at 752 in 1981. The current budget calls for a reduction to 596 positions -- a 20 percent cut.

What is the distribution of staff reductions between Washington and the regions?

Answer: To answer this question it is necessary to separate the support workyears, which included functions such as the General Counsel and Administrative Law Judges, from the substantive Consumer Protection Mission. As the following chart reveals, we decreased our support services in greater proportion than our law enforcement efforts. Consequently the budget for the Consumer Protection Mission would decrease by 16 percent from FY81 to FY83.

The Consumer Protection Mission is broken down into three components: Headquarters, Economics, and Regional Offices.

The Consumer Protection Mission's Headquarters workyears are being increased at a relatively slow rate, by nine percent. The Regional Office workyears are being decreased by 57 percent.

The Economics component, located here in Washington, provides economic analyses of the many cases, issues, and rules within the Consumer Protection Mission. Such analysis is essential if the Commission's law enforcement efforts are to maximize consumer welfare. Because the economics component has been understaffed in the past it is being expanded by 43 percent from FY81, although the total number of workyears (30.0) remain relatively few.

SUMMARY TABLE
CONSUMER PROTECTION MISSION

	Fiscal 1981	1983 Proposed	% Change
Headquarters	302	330	+9%
Economics	21	30	+43%
Regions	221	96	-57%
Subtotal	544	456	-16%
Support	208	140	-33%
Total	752	596	-21%

Moreover, the reduction in the Commission's credit program reflects the fact that the Commission has implemented enforcement of five major amendments to the Consumer Credit Protection Act since 1975. Much of this legislation has now been in place for several years. Past and continuing education and enforcement efforts have resolved many compliance problems, as well as helped us to focus our enforcement on issues with the greatest potential for consumer injury. Accordingly, fewer resources are needed than in past years. Similarly, staff experience gained from initial investigations and enforcement actions under some of the newer statutes allows us to streamline investigations and enforcement actions and to apply better case selection criteria to new cases.

Budget reductions in the advertising enforcement program generally reflect organizational efficiencies planned within the Bureau of Consumer Protection and the reduction of resources planned for rulemaking. Consolidation of the previously separate three advertising programs into a single unit that monitors all advertising, for example, will allow for more efficient and effective use of these resources.

REQUEST FOR ECONOMIC ANALYSIS

Question: Is this request related to your plan to intervene before regulatory agencies?

Answer: As the answer to the previous question states, this request reflects the need to increase economic analysis to all matters, particularly rules and cases. Some resources will be spent regarding intervention, as in the past. Moreover, considerable resources will be spent evaluating existing rules and orders, to comply with statutes such as the Regulatory Flexibility Act and to determine the impact of such rules and orders on consumers.

Question: For what purpose do you plan to intervene before regulatory agencies? What resources are included in this budget for intervention before other agencies?

Answer: The Federal Trade Commission has long been aware that government initiatives, as well as private action, may in some cases decrease competition and consumer welfare. Indeed, instances of government action inimical to competition and consumer welfare come to the Commission's attention in the course of the same investigatory and monitoring activities directed at private industry. Thus, in addition to its rulemakings, cases and other work to remedy problems arising in the private sector, the Commission has traditionally been active in espousing pro-competitive and pro-consumer action by government agencies.

In deciding where and when to intervene, of course, we seek situations where the benefits of our intervention exceed the costs. The costs are minimized by concentrating on areas in which we have a comparative advantage by virtue of our consumer protection and competition expertise and because of our experience in the substantive area. The benefits are maximized by focusing on areas in which FTC intervention has a substantial likelihood of influencing the decision of the agency in question and in which appreciable economic benefits will result from the agency's taking the action we advocate.

We realize, of course, that economic efficiency may not be the only issue of concern in a particular matter before another agency. On the other hand, efficiency is an important goal that cannot be ignored. With this in mind, I foresee a continuation of our traditional role before other federal agencies in defense of competition and consumers in the months and years to come.

Regarding resources for intervention, the need will vary according to the number and the nature of regulations proposed by the various agencies, and how they interact with the relative priorities of the Commission. The level of FTC activity in this area has not exceeded the level established in prior years. Because we desire our analysis of issues to be comprehensive, information is necessarily integrated within our other programs. Accordingly, intervention has never been a separate program for which separate resource expenditures are kept.

Question: The Commission is asking for an increase in economic and regulatory analysis. Given the fact that you are planning fewer rulemakings, why is this increase necessary?

Answer: The increase is necessary because the crucial task of economic and regulatory analysis is to provide necessary data, expertise, and judgment for the purpose of evaluating different Commission initiatives, particularly rulemakings and cases. As our review of current rulemakings reveal, the amount of economic analysis of these matters has been grossly insufficient.

With the rules, we need to significantly increase our economic analysis over the next several years to correct the lack of such analysis in the past.

Despite the large size of the rulemakings records, I have been advised that with rare exceptions the staff documents summarizing these records reveal a startling lack both of systematic economic analysis and of systematic evaluation of relevant evidence upon which to base an industrywide rule. Indeed, several of the rules seem to have proceeded without a focus on why or whether there was any problem with the marketplace that merited government intervention.

Lacking a theory of market failure to guide the kinds of evidence that should have been gathered, the rulemaking records appear to often have been developed by accumulating a parade of horribles -- particular instances of the problems at issue. My staff states that only rarely is statistical evidence available that would allow an assessment of the incidence of the challenged practice or the injuries it might cause. Nor is there much systematic analysis of the remedy proposed, as to either its effectiveness or its result.

Because such theories did not guide the development of the rulemaking records, the Bureau of Consumer Protection frequently lacked evidence that would enable it to test the theory in a straightforward manner. Instead, it is necessary to sift through voluminous records to cull pertinent evidence and then evaluate its adequacy. Given the size of the records involved, this has been an enormously time-consuming task, and requires an increase in economic and regulatory analysis resources.

USED CAR RULE

Question: What resources have you requested in this budget for carrying out the used car rule?

Answer: In the FY83 budget currently pending before Congress, 3.0 total workyears are planned for the enforcement of the used car rule.

RULEMAKINGS

Question: What rulemakings do you currently have in the pipeline to be issued?

Answer: The following trade regulation rules, and amendments to rules, are currently pending:

Hearing Aids

Protein Supplements

Proprietary Vocational and Home Study Schools

Food Advertising

Amendments to "Holder In Due Course Rule"

Credit Practices

Funeral Industry Practices

Mobile Home Sales and Service

Modifications to Rule Regarding Pre-Sale Availability Of Warranty Terms

Amendment to Care Labeling of Textile Wearing Apparel Rule

Antacid Advertising

Health Spas

Standards and Certifications

Eyeglasses II

Amendment to Labeling and Advertising of Home Insulation Rule

ANTITRUST MERGER GUIDELINES

QUESTION: The Justice Department has been enaged in reviewing and revising the antitrust merger guidelines. To what extent has the Commission been in communication with Mr. Baxter on this issue.

ANSWER: Cooperation between the Commission and the Antitrust Division in this area has been excellent. Attorneys and economists of the Commission have been in contact on a regular basis on this subject with attorneys and economists of the Division. As a result of these efforts, the Commission and the Antitrust Division were able to release their respective merger statements virtually simultaneously.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

TUESDAY, MAY 25, 1982

U.S. Senate,
Subcommittee of the Committee on Appropriations,
Washington, D.C.

The subcommittee met at 10:30 a.m., in executive session, in room S-407, the Capitol, Hon. Lowell P. Weicker, Jr. (chairman) presiding.

Present: Senator Weicker.

FEDERAL BUREAU OF INVESTIGATION

The subcommittee heard the classified testimony of Hon. William H. Webster, Director.

DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 1983

THURSDAY, MAY 27, 1982

U.S. SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room S–146, the Capitol, Hon. Lowell P. Weicker (chairman) presiding.

Present: Senator Weicker.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

STATEMENT OF HON. JEANE J. KIRKPATRICK, U.S. PERMANENT REPRESENTATIVE TO THE UNITED NATIONS

ACCOMPANIED BY:
- MARK L. EDELMAN, DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL MANAGEMENT AND BUDGETARY ANALYSIS
- RICHARD V. HENNES, EXECUTIVE DIRECTOR OF THE BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS
- BRUCE CLARK, COUNSELOR FOR ADMINISTRATION OF THE UNITED STATES MISSION TO THE UNITED NATIONS
- CHARLES E. WATKINS, BUDGET OFFICER OF THE BUREAU OF INTERNATIONAL ORGANIZATION AFFAIRS

BUDGET REQUEST

Senator WEICKER. Our first request is that of the Department of State, international organizations and conferences. The amount requested is $521,491,000, an increase of $55,029,000 over the 1982 appropriation, and provides funds for U.S. contributions to international organizations, U.S. contributions for international peacekeeping activities, and international conferences and contingencies. Included in this request is a 1983 budget amendment of $13,400,000 for international peacekeeping activities, to cover the U.S. share of the recently expanded United Nations interim force in Lebanon.

Senator WEICKER. Appearing on behalf of this request is Ambassador Jeane J. Kirkpatrick, U.S. Permanent Representative to the United Nations. Ambassador, why don't you introduce those who accompany you and then proceed whichever way you find suitable in the presentation of your statement.

Ambassador KIRKPATRICK. Thank you, Senator.

With me today are Charles Watkins, from the Budget Fiscal Office; Bruce Clark, Counselor for Administration of the U.S. Mission to the United Nations; Mark Edelman with the International Management and Budgetary Analysis; and of course Richard Hennes, Bureau of International Organization Affairs.

Senator WEICKER. Please proceed, Ambassador.

Ambassador KIRKPATRICK. Senator Weicker, I decided rather than try to anticipate your interests and those of this committee, that it would perhaps be an economy for your time and mine as well if I responded to your questions.

SITUATION IN LEBANON

Senator WEICKER. Fine.

I have two areas. First, I note the increase called for insofar as the activities in Lebanon are concerned. Would you like to comment on that situation, the success or failure of the United Nations in that particular mission?

Ambassador KIRKPATRICK. Well, as you know, Senator Weicker, the U.S. Government has been involved, as well as other governments have been involved, in an effort to try to extend peace to the tinderbox which is called Lebanon.

As you know, not long after the administration came to office, the Ambassador there had put together a new cease-fire to end a new conflict which had threatened not only to spread through the area, but also to involve the United Nations which had assumed special responsibilities in trying to maintain peace in southern Lebanon.

The United Nations forces in southern Lebanon have been concentrated in that one area for a number of years. I have spoken regularly with General Callaghan, as well as with others, Under Secretary General of the United Nations, Brian Urquhart, who is charged with special responsibilities for peacekeeping missions. While they have been relatively successful in minimizing the conflict in this area, the conflict in all the surrounding regions has continued to grow, and the potential for war and broad conflagration there has increased.

As I am sure you know, there has been'a continuing buildup of the PLO weapons, a continuing buildup of Syrian weaponry and heavy weapons in the north. Israeli forces are in Hadad's border enclave, and the peace is ever more fragile.

After a great deal of investigation, all of the nations most seriously interested in the peacekeeping effort decided, and with the acquiescence of Israel, Lebanon, and Syria too—and it is not easy to get their acquiescence, I might say, on anything—the three of them decided that it was advisable to increase the forces by 1,000 troops. The increased expenses reflect the decision to increase the peacekeeping forces by 1,000—that is from 6,000 to 7,000, under an informal understanding that those additional forces would be French. And as you know, Senator, we do not provide forces, but we do pay a significant contribution financially.

PEACEKEEPING FORCES IN LEBANON

Senator WEICKER. Who provides forces in that particular situation?

Ambassador KIRKPATRICK. Fiji, Nigeria—as I said, most of the increased forces will be the French.

Senator WEICKER. Yes, Fiji, Nigeria and——

Ambassador KIRKPATRICK. Yes.

Senator WEICKER. And France.

Ambassador KIRKPATRICK. Right—and who else?

The other peacekeeping forces——

Mr. EDELMAN. There is Ireland.

Ambassador KIRKPATRICK. Ireland, the Netherlands, Nepal, France, Italy, Sweden, Senegal—but the larger contingents in the area that have been most under heaviest fire and most threatened, I should say, have been Nigeria and Fiji, Ireland, and Norway. It is a broad multinational peacekeeping group. France is going to substantially increase that contribution.

Senator WEICKER. Where is the force stationed? Is it throughout Lebanon?

Ambassador KIRKPATRICK. No; there is an area of southern Lebanon, which I could show you on a map, which extends from about the southern half—maybe the southern 40 percent of Lebanon. It extends down to an enclave which is then occupied by Major Hadad, and over to an area which was not included in the original boundaries set by an arrangement between the various warring factions, Lebanon and the United Nations.

There is a hope, I think, of some marginal extension by redeployment of the area of forces with this increase, but basically the increase is aimed at financing the additional 1,000 troops that would be deployed there.

THE FALKLANDS SITUATION

Senator WEICKER. Maybe you would like to use this occasion to bring us up to date on the United Nations' role vis-a-vis the Falkland Islands, both the past role and what you foresee as the role for the present time and the future so far as medication and possibility for solutions is concerned.

Ambassador KIRKPATRICK. I welcome the effort, Senator.

I think the United Nations has performed rather more positively, constructively, in the Falkland dispute than it often does in relation to international disputes, although it has not yet succeeded, of course, in solving the conflict.

The first U.N. action in relation to the Falkland conflict was the passage of resolution 502, which occurred where the British Personal Representative to the United Nations requested a meeting in the same day the Argentine forces moved into the Falklands and seized them. The day before that, the British Representative, aware that this was about to happen, appealed to the Security Council to consider this. So the consequences were resolution 502, which called for evacuation of the forces, an end to all hostilities, and peaceful negotiations to solve the fundamental problem, which is the fundamental problem for the islands, the future of the islands.

The Security Council was able to reach agreement on that resolution and pass it without any problem within the first 24 hours of the Argentine movement. That was good performance, it was fast and effective institutionally speaking—it was not effective in the sense that it did not lead the Argentine Government to withdraw the forces, and it did not lead to a cessation of the hostilities or a return to peaceful negotiations.

As you know, then Secretary of State Haig undertook mediation efforts. He went to both capitals for a period of several weeks, and during that time period, both the Secretariat to the United Nations and the Security Council decided, to refrain from acting and to refrain from even commenting on the conflict in order to give maximum freedom to Secretary Haig and in order to make certain nothing there would complicate his efforts.

Once the Secretary of State—or once the U.S. Government announced our decision to support the British, on that Friday, at which time Secretary Haig had returned home from London, the U.N. Secretariat took this as a kind of announcement that the United States was for the time being abandoning mediation and the Secretary General undertook consultations with a view toward inaugurating an effort of his own.

EFFORTS OF THE SECRETARY GENERAL

Now, there were informal consultations of the Security Council at that time, and informal consultations, but they were private and limited to members of the Security Council, and their results are not publicized. In informal consultations the Security Council agreed to support the Secretary General's efforts in mediation and not take any further action at that time again in order to provide maximum freedom and noninterference with the Secretary General's efforts.

Only after the Secretary General concluded on May 19, that his efforts failed and an announcement was made, did he call the Security Council into session to give a report on his efforts and say this was basically now a problem for the Security Council again, not one which he could deal with himself alone.

The Security Council held various consultations during the last week which culminated finally yesterday in the passage of a resolution which calls on the Secretary General once again to undertake efforts at mediation and to do this in the context of resolution 502 and also his report to the Security Council.

Now, in his report to the Security Council, he described the effort as near agreement. There was agreement on quite a large number of the areas of previous disagreement. Agreement had been reached on, for example, withdrawal of troops and negotiations of the question of sovereignty United Nations, administration, and so forth.

In the new resolution, the Security Council is calling on the Secretary General now to pick up where he left it off and continue in that framework as well as resolution 502.

You know, something unprecedented happened yesterday, the Secretary General, in accepting that, rebuked the Security Council, and U.N. journalists who have been reporting this for 15 years assert that this has never happened.

Senator Weicker. Excuse me, what was the basis of his rebuke?

Ambassador Kirkpatrick. That the resolution which the Security Council had given to him did not provide him the tools with which he needed to reach a solution to this problem.

What he had wanted was something a great deal more specific from the Council, such as a call for cease-fire, a specific receipt for withdrawal within 24 hours to equi-distant points, and this sort of thing. He had wanted a more specific framework.

What he got is above all permissive in his view. He is obviously not only willing, but ready to try, but he made quite clear in his responses that he was not optimistic about his new resolution as a tool for resolving the problem.

He, however, went to work on it yesterday afternoon. He had never, in fact, ceased working on it, and will be trying.

And I might say, the Secretary General and I have been in a great deal of touch on the Falklands effort throughout both—particularly during the period of his efforts on mediation, and have kept each other very well informed. I think he is a very good man, and we are fortunate to have him as a Secretary General.

USING THE UNITED NATIONS

Senator Weicker. Assuming that there is going to be a military resolution to this problem, isn't it reasonable to expect that at that juncture the United Nations might not be utilized? I don't see where it will be utilized at this point. I suppose what occurs to me is that there very well could be a military resolution developing in a relatively short period of time, and then who takes over the process? How do you view that?

Ambassador Kirkpatrick. Well, Senator Weicker, it is a very, very difficult situation, which is going to take the best effort of a good many people in countries, many countries, I think. Assuming there is a military resolution suppose the British win—which is what our news media leads us to expect, anyway—but suppose they win quickly on the islands. Then the situation of the last few days is certainly going to be reversed as regards the United Nations, because in the last days the British have asserted that they would not accept a cease-fire, they have said very clearly, both publicly as well as privately, that they would have vetoed any resolution calling for a ceasefire or that they would today do so.

Yesterday they also asserted they would not accept any resolution that linked a cease-fire to withdrawal of British troops. Now suppose they win a military victory, then they are going to want to move immediately, I think, to the Security Council and call for a cease-fire. But at that point the Argentines are not going to want a cease-fire, and while the Argentines don't have a veto in the Council, the Soviets and

Chinese do. The Chinese have been serving as the president of the Security Council, and the representative has done an impeccable job, dispassionately conducting the Security Council, but it is very well known by people who follow the conflict that the Chinese have great sympathy with Argentina..

Therefore, suppose there was a veto available in the Security Council at that point against a cease-fire resolution. The Argentines are extremely unlikely to abandon the task of recapturing of the Falklands, if the British reestablish themselves. Therefore, the British have also informally communicated their preference for having no U.N. role, but simply to reestablish British sovereignty in the Falklands.

So I think what we are at is a situation that it is difficult to predict what the U.N. role may be, if any at all. Certainly I feel quite certain the issue will be back before the Security Council, and there will be nations, as there have been all along, who will be urging the United Nations to send observers to undertake the administration of the islands, but it is a very complex, difficult problem from the U.N. standpoint.

RELATIONS WITH LATIN AMERICA

Senator WEICKER. From your U.N. perspective, how has that affected our relations with the rest of the Latin American nations?

Ambassador KIRKPATRICK. Senator Weicker, we have a very large problem and I think there is only beginning to be any kind of accurate cognizance of it in this country by our press, and so forth.

I have been in very close touch with a wide range of representatives of Latin nations in the last few days as the Security Council works on this problem, and I might say that we have worked at the United Nations in trying to develop good close working relations with Middle Eastern nations, with Latin American nations, and continue the very close working relations we have with them.

We have come to consult very closely with the Venezuelans, for example, Colombians, Peruvians, Eduadorians, Costa Rico and the democratic nations of Latin America in the last year.

Since I speak Spanish and we have another U.S. Ambassador who speaks Spanish, that also has facilitated the development of close relations.

Now, there have been large delegations in the last days from all of those countries present at the United Nations; the Foreign Ministers of Venezuela and Panama were there, as well as Nicaragua—with whom I don't have very close working relationships—and there is a large group of representatives from Argentina, and from Peru and I have been in very close touch with them.

The Latin friends of the United States are profoundly concerned about the impact of this whole sequence of events, on not just our immediate relations with the Latins, but our long-range dealings with the Latin nations.

What it has done is feed into a basic distrust and resentment that Latin American nations have historically had about we yankees, and this distrust is based on the feeling we do not really care much for them, or have no respect for them, and we will always prefer Europe and our relations with Europe to relations in this hemisphere. This basic suspicion about us becoming the foundation against which our policies currently are played out, and it has and will create very major difficulties for us and a very great challenge for us to try to restore good relations.

THE QUESTION OF AGGRESSION

Senator WEICKER. They don't understand the U.S. position is pretty well based on not so much old ties but as to who the aggressor is? Don't they understand that?

Ambassador KIRKPATRICK. No.

Senator WEICKER. I think they should. It is bad if Mexico decides to invade the Cayman Islands. We will be involved with the same situation.

Speaking from my own point of view as a Senator, and being very pro-British our position has not so much to do with Europe vis-a-vis Latin America, as it does with who the aggressor was.

Ambassador KIRKPATRICK. That is the way you see it, Senator, and frankly, that is the way I see it, but you asked me a question about how they saw it, and they make two or three points, our good friends among the Latins. They make a point that the United States has not usually engaged or involved itself in border disputes or colonial residues, disputes based on colonial residues. They point out that we did not involve ourselves at the outbreak of the war between Peru and Ecuador 2 or 3 years ago.

That is one point they make historically, we have not involved ourselves in those kinds of border conflicts, even to the territorial conflicts, even when there was aggression.

The second point they make is that it is a colonial issue. The way the Argentins have gotten support from the nonalined movement, and from their fellow Latin Americans at such a high level is on the colonial question. They argue this is a residue of colonialism and the United States has not historically involved intself in wars against colonialism, which is what they call it, but that we did not, for example, help France defend herself against the National Liberation Movement in Algeria. That is the sort of argument one hears here.

Therefore, while the principles are clear to us, there are counter-principles involved in the colonialism issue, the nonintervention issue, and the extra continental force issue, which is another principle that they cited, the principle of solidarity which they feel our actions are violating. Therefore they feel that—and we will hear this today, I think, at the OAS—that there is a principled objection to the U.S. position.

U.S. ROLE IN LATIN AMERICA

Senator WEICKER. I am glad to have that on the record, and just speaking for myself, nobody feels more keenly than I do, and I have expressed myself, I might add, in the totality of what the United States should be doing, and I mean that includes Cuba, El Salvador, and everybody else. Believe me, this Senator feels very, very strongly as to the role the United States should play in this hemisphere with our Latin American neighbors. We should be doing everything we can do to achieve the closest ties of friendship without in any way interfering in their affairs.

I feel it very, very keenly, and I hate to see that put on the line when many of us feel that way. I feel our role should be far stronger with Latin America than with Great Britain, but we are put to this rather awkward choice.

Please tell my friends there it is the wrong test case, that is the problem. That is just about what it comes to.

Ambassador KIRKPATRICK. Senator Weicker, it won't make you feel any better to know this, but I have been telling them that ad nauseam, I might say.

Senator WEICKER. I just think, we should be defending everybody's attitude to make our ties closer. That is a test of our friendship—with the Falkland Islands.

Ambassador KIRKPATRICK. I might say, I also made that point in the one speech which I made on our behalf in the course of the Security Council debates, I made it very clear that this was the wrong test for our attitudes toward Latin America, our solidarity, or our friendship.

Senator WEICKER. Well, I think it points out the importance of your individual role, the U.S. role in the area.

Now, if I have questions they will be submitted to Mr. Edelman for response in the record.

Mr. EDELMAN. Fine.

Senator WEICKER. I imagine when you do have an OAS meeting, will you be attending that?

Ambassador KIRKPATRICK. No; I won't.

Senator WEICKER. They won't allow you to sit in there?

Ambassador KIRKPATRICK. Nobody invited me, Senator Weicker.

Senator WEICKER. You cannot just walk in?

Ambassador KIRKPATRICK. I don't believe so.

PREPARED STATEMENT OF MARK L. EDELMAN

Senator WEICKER. All right, thank you, very much.

Your statement will be printed in the record.

[The statement follows:]

STATEMENT OF MARK L. EDELMAN

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE IN SUPPORT OF THE PRESIDENT'S FISCAL YEAR 1983 REQUESTS OF $438,515,000 FOR CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS, $73,400,000 FOR CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES AND $9,576,000 FOR INTERNATIONAL CONFERENCES AND CONTINGENCIES. I WILL EXPLAIN IN SUMMARY FORM THE MAKE-UP OF THESE REQUESTS.

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

AS YOU KNOW, U.S. ASSESSED CONTRIBUTIONS MAY BE GROUPED INTO FOUR GENERAL CATEGORIES:

UNITED NATIONS AND AFFILIATED AGENCIES..........	$316,159,000
INTER-AMERICAN ORGANIZATIONS....................	82,596,000
REGIONAL ORGANIZATIONS..........................	33,023,000
OTHER INTERNATIONAL ORGANIZATIONS...............	6,737,000
TOTAL	$438,515,000

THE TOTAL 1983 REQUEST OF $438.5 MILLION REPRESENTS A NET INCREASE OF $40.3 MILLION OVER FISCAL YEAR 1982. THIS INCLUDES OBLIGATIONS OF $332.7 MILLION DEFERRED FROM FISCAL YEAR 1982, PLUS $550.3 MILLION IN NEW ASSESSMENTS FOR CALENDAR YEAR 1983, LESS A PROPOSED DEFERRAL OF $444.5 MILLION TO FISCAL YEAR 1984.

THE REQUEST FOR THE UNITED NATIONS AND AFFILIATED AGENCIES INCLUDES OBLIGATIONS OF $311.3 MILLION DEFERRED FROM FISCAL YEAR 1982, PLUS $404.3 MILLION IN NEW ASSESSMENTS FOR CALENDAR YEAR 1983, LESS A PROPOSED DEFERRAL OF $399.4 MILLION TO FISCAL YEAR 1984. THIS DEFERRAL APPLIES TO ALL UN AGENCIES EXCEPT THE INTERNATIONAL TELECOMMUNICATIONS UNION AND THE UNIVERSAL POSTAL UNION. THE 1983 REQUEST OF $316.2 MILLION, THEREFORE, REPRESENTS A NET INCREASE OF $53.2 MILLION OVER THE FISCAL YEAR 1982.

THE 1983 REQUEST FOR THE INTER-AMERICAN ORGANIZATIONS INCLUDES $6.7 MILLION IN OBLIGATIONS DEFERRED FROM FISCAL YEAR 1982, $87.3 MILLION IN NEW CALENDAR YEAR 1983 ASSESSMENTS, LESS A PROPOSED DEFERRAL OF $11.4 MILLION FOR THE INTER-AMERICAN INSTITUTE FOR COOPERATION ON AGRICULTURE. THUS, THE 1983 REQUEST OF $82.6 MILLION REPRESENTS A DECREASE OF $6.2 MILLION FROM FISCAL YEAR 1982.

FOR THE REGIONAL ORGANIZATIONS, THE 1983 REQUEST INCLUDES $12.8 MILLION IN DEFERRED 1982 OBLIGATIONS, $49.8 MILLION IN NEW CALENDAR

YEAR 1983 ASSESSMENTS, LESS A PROPOSED DEFERRAL OF $29.6 MILLION FOR THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT. THE FISCAL YEAR 1983 REQUEST OF $33.0 MILLION REPRESENTS, THEREFORE, A $4.8 MILLION DECREASE FROM FISCAL YEAR 1982.

$6.7 MILLION IS REQUESTED FOR THE ASSESSMENTS OF 22 OTHER INTERNATIONAL ORGANIZATIONS. THIS INCLUDES $1.8 MILLION IN CALENDAR YEAR 1982 OBLIGATIONS DEFERRED TO FISCAL YEAR 1983, $9.0 MILLION IN NEW ASSESSMENTS FOR CALENDAR YEAR 1983, LESS $4.1 MILLION PROPOSED FOR DEFERRAL TO FISCAL YEAR 1984 FOR THE GENERAL AGREEMENT ON TARIFFS AND TRADE. THIS RESULTS IN A NET DECREASE IN FISCAL YEAR 1983 OF $1.9 MILLION FOR THESE OTHER INTERNATIONAL ORGANIZATIONS FROM FISCAL YEAR 1982.

AS INDICATED IN THE PRESIDENT'S BUDGET, THE ADMINISTRATION'S POLICY REGARDING U.S. ASSESSED CONTRIBUTIONS IS TO CONTINUE TO PLACE A HIGH PRIORITY ON EFFECTIVE MANAGEMENT OF INTERNATIONAL ORGANIZATIONS. WE BELIEVE IT IS PARTICULARLY IMPORTANT THAT ORGANIZATIONS REGULARLY EVALUATE THEIR PROGRAMS, REDUCE AND PHASE OUT LOW-PRIORITY AND OBSOLETE ACTIVITIES, OPERATE WITH LEAN STAFFS, AND MINIMIZE SUPPORT AND OVERHEAD COSTS. WE INTEND TO SUPPORT ONLY THOSE ORGANIZATIONS' BUDGETS THAT REFLECT SIGNIFICANT RESTRAINT. THIS ADMINISTRATION IS CONVINCED THAT, AFTER THE SUBSTANTIAL PROGRAM GROWTH OF RECENT YEARS, THE EFFECTIVENESS OF MOST ORGANIZATIONS WILL BE ENHANCED BY A PERIOD DEVOTED TO EVALUATION, ASSIMILATION, AND RATIONALIZATION.

WE HAVE BEEN IN THE FOREFRONT IN INTERNATIONAL ORGANIZATIONS IN URGING BUDGET RESTRAINT AND IN ADVOCATING THAT THE SAME SEARCHING SCRUTINY AND BELT TIGHTENING BE APPLIED TO THEIR PROGRAMS AND ACTIVITIES AS IS BEING APPLIED TO OUR OWN DOMESTIC PROGRAMS. WE HAVE MADE IT CLEAR AT MEETINGS THROUGHOUT THIS PAST YEAR THAT INTERNATIONAL ORGANIZATIONS CANNOT OPERATE UNDER THE ILLUSION THAT THEY ARE IMMUNE FROM THE ECONOMIC PRESSURES AND CONSTRAINTS OF THE TIMES.

WE HAVE STRONGLY URGED THAT REALITIES MUST BE FACED AND WE BELIEVE MEASURABLE PROGRESS IS BEING MADE. IN THE UNITED NATIONS, FOR EXAMPLE, THE SECRETARY GENERAL'S DRAFT PROGRAM BUDGET FOR THE 1982-1983 BIENNIUM PROVIDED FOR NO REAL PROGRAM GROWTH. SUCH A RESPONSE TO OUR CALLS FOR BUDGETARY RESTRAINT WAS UNPRECEDENTED.

THE BUDGET AS FINALLY APPROVED LAST DECEMBER BY THE GENERAL ASSEMBLY, ACCORDING TO UN SECRETARIAT OFFICIALS, CONTAINS LESS THAN ONE PERCENT REAL PROGRAM GROWTH. DESPITE THIS UNUSUAL RESTRAINT, WE STILL FELT OBLIGATED TO VOTE AGAINST THE FINAL BUDGET LEVEL--THE FIRST NEGATIVE U.S. VOTE ON A REGULAR UN BUDGET--DUE CHIEFLY TO THE TOTAL AMOUNT OF GROWTH AND OUR DISAPPOINTMENT AT THE FAILURE OF THE GENERAL ASSEMBLY TO CONSIDER ADEQUATELY A REPORT BY THE SECRETARY GENERAL ON MARGINAL, OBSOLETE, AND COMPLETED PROGRAMS. HOWEVER, WE BELIEVE THE FINAL BUDGET LEVEL DEMONSTRATED THE IMPACT OF EFFORTS MADE BY THE UNITED STATES AND OTHER DEVELOPED NATIONS WHO WERE RELENTLESS IN PRESSURING THE UNITED NATIONS SECRETARIAT TO CONTAIN EXPENDITURES. UNFORTUNATELY, NOT ALL OTHER ORGANIZATIONS HAVE BEEN AS RESPONSIVE AS THE UN ITSELF.

IN APRIL, 1981, THE GENEVA GROUP--GOVERNMENTS OF DEVELOPED FREE WORLD COUNTRIES WHO CONTRIBUTE ONE PERCENT OR MORE TO THE BUDGETS OF THE LARGEST UN SPECIALIZED AGENCIES--ADOPTED A CONCERTED POSITION ON THE BUDGETS OF THE SPECIALIZED AGENCIES. THE TWELVE MEMBERS AGREED THAT DURING THE FIRST HALF OF THE PRESENT DECADE REAL BUDGETARY GROWTH SHOULD BE ZERO AND THAT ORGANIZATIONS MAY HAVE TO ABSORB THE ADVERSE EFFECTS OF INFLATION AND EXCHANGE RATE FLUCTUATIONS. THIS IS THE POLICY OF THE ADMINISTRATION.

AS PART OF OUR EFFORT TO SEEK EFFECTIVE IMPLEMENTATION OF THIS POLICY, I CONSULTED IN JANUARY WITH REPRESENTATIVES OF OTHER GENEVA GROUP MEMBER GOVERNMENTS AT THE HEADQUARTERS OF THE UN AGENCIES IN GENEVA, PARIS, ROME, AND VIENNA. I ALSO MET WITH MY UK COUNTERPART IN LONDON SINCE THE U.S. AND THE UK SERVE AS CO-CHAIRMEN OF THE GENEVA GROUP. DURING MY CONSULTATIONS I CLEARLY AND BLUNTLY INDICATED U.S. CONCERN ABOUT THE GROWTH OF INTERNATIONAL ORGANIZATIONS' BUDGETS AND THE SIGNIFICANT BUDGETARY PROBLEM WE WOULD FACE IF THEY WERE NOT BETTER CONTROLLED. I ALSO HEADED THE U.S. DELEGATION TO THIS YEAR'S ANNUAL MEETING OF THE GENEVA GROUP WHICH MET APRIL 20 AND 21. THIS PROVIDED AN OPPORTUNITY FOR MORE FORMAL CONSIDERATION TO BE GIVEN TO MEANS FOR DEALING WITH THE PROBLEM OF BUDGET GROWTH IN THE UN AGENCIES.

AS THE COMMITTEE IS AWARE, WE HAVE ALREADY INSTITITUED A POLICY OF DEFERRING PAYMENT ON U.S. ASSESSED CONTRIBUTIONS AS A MEANS OF IMPRESSING ON INTERNATIONAL ORGANIZATIONS IN VERY CONCRETE TERMS THE

SERIOUSNESS WITH WHICH WE VIEW THE GROWTH RATES OF THEIR BUDGETS. FOR THIRTEEN MAJOR INTERNATIONAL ORGANIZATIONS, PAYMENT OF U.S. CALENDAR YEAR OBLIGATIONS ULTIMATELY WILL BE DEFERRED UNTIL THE LAST QUARTER OF THE CALENDAR YEAR WHICH IS THE FIRST QUARTER OF THE SUBSEQUENT U.S. FISCAL YEAR. THUS, PAYMENT OF THESE OBLIGATIONS WILL BE DEFERRED A FULL FISCAL YEAR.

THIS DEFERRAL POLICY ORIGINALLY WAS PROPOSED TO BE IMPLEMENTED GRADUALLY OVER A FOUR-YEAR PERIOD. ACTION TAKEN BY THE EXECUTIVE BRANCH AND THE CONGRESS HAS SHORTENED THE PERIOD TO TWO AND ONE-HALF YEARS. IN FACT, THE FISCAL YEAR 1983 REQUEST REFLECTS COMPLETION OF THIS PROCESS. A TOTAL OF $444.5 MILLION OF CALENDAR YEAR 1983 ASSESSMENTS WILL BE DEFERRED UNTIL FISCAL YEAR 1984. IT IS IMPORTANT TO UNDERSTAND THAT, ALTHOUGH U.S. PAYMENTS WILL BE DEFERRED, THE ADMINISTRATION DOES NOT INTEND THAT THE UNITED STATES GO INTO ARREARS SINCE IT REMAINS ADMINISTRATION POLICY THAT ALL OBLIGATIONS WILL BE MET WITHIN THE CALENDAR YEAR THAT THEY ARE DUE. THIS MEANS THAT, BASED ON CURRENT ESTIMATES, AN INCREASE OF OVER $100 MILLION WILL BE REQUIRED FOR THIS APPROPRIATION IN FISCAL YEAR 1984. THE DEFERRAL PROCESS WILL HAVE BEEN COMPLETED AND WE WILL BE FACED IN 1984 AND FOLLOWING YEARS WITH THE LEGAL OBLIGATION TO MAKE FULL PAYMENT OF CALENDAR YEAR ASSESSED CONTRIBUTIONS IN THE FIRST QUARTER OF THE NEXT FISCAL YEAR.

MR. CHAIRMAN, OUR EFFORTS HAVE BEEN FOCUSED LARGELY TOWARD CONTAINING BUDGET LEVELS. THIS SHOULD NOT BE MISCONSTRUED, HOWEVER, AS SIGNALLING NON-SUPPORT OF VARIOUS PROGRAMS AND ACTIVITIES CARRIED OUT BY OR UNDER THE AUSPICES OF THE DIFFERENT INTERNATIONAL ORGANIZATIONS. WHO'S PROGRAM OF HEALTH FOR ALL BY THE YEAR 2000; THE SAFEGUARDS PROGRAM OF THE IAEA; PEACEKEEPING ACTIVITIES AND DRUG ABUSE CONTROL IN THE UNITED NATIONS; AS WELL AS THE WORLD WEATHER WATCH OF THE WMO AND REGIONAL ACTIVITIES CARRIED OUT BY PAHO AND THE OAS ALL REPRESENT EXAMPLES OF POSITIVE AND CONSTRUCTIVE PROGRAMS OF DIRECT BENEFIT TO THE UNITED STATES AS WELL AS TO THE WORLD. WHAT IS REQUIRED OF OUR PARTICIPATION IN INTERNATIONAL ORGANIZATIONS, MR. CHAIRMAN, IS TO CONTINUE TO SUPPORT BENEFICIAL PROGRAMS SUCH AS THESE WHILE, AT THE SAME TIME, WE SEEK TO ELIMINATE THOSE WHICH ARE OUTMODED OR INEFFECTIVE SO AS TO OBTAIN THE BEST VALUE FOR OUR MONEY. THIS IS THE GOAL TOWARD WHICH WE ARE STRIVING.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

THESE FUNDS PROVIDE THE UNITED STATES SHARE OF THE COSTS OF THE UNITED NATIONS DISENGAGEMENT OBSERVER FORCE (UNDOF) ON THE GOLAN HEIGHTS, AND THE UNITED NATIONS INTERIM FORCE IN LEBANON (UNIFIL) IN SOUTHERN LEBANON. THESE PEACEKEEPING FORCES PROMOTE OUR NATIONAL INTEREST IN PEACE AND STABILITY IN THE MIDDLE EAST.

UNDOF AND UNIFIL WERE ESTABLISHED BY THE UNITED NATIONS SECURITY COUNCIL IN 1974 AND 1978 RESPECTIVELY. UNDOF MONITORS THE DISENGAGEMENT AGREEMENT ON THE GOLAN HEIGHTS. UNIFIL HAS THE MANDATE OF KEEPING THE PEACE IN SOUTHERN LEBANON WITH THE ULTIMATE OBJECTIVE OF RESTORING THE AUTHORITY OF THE LEBANESE GOVERNMENT THERE. FROM THE OUTSET, THESE FORCES HAVE BEEN EXPENSES OF THE UNITED NATIONS TO BE BORNE BY ALL MEMBERS IN ACCORDANCE WITH ARTICLE 17 OF THE UN CHARTER.

THE ORIGINAL REQUEST OF $60,000,000 REFLECTS A DECREASE OF $938,000, WHICH IS A CONSEQUENCE OF A NON-RECURRING PAYMENT IN 1982 OF A 1981 SHORTFALL. THIS SHORTFALL RESULTED FROM THE INCREASED REIMBURSEMENTS TO TROOP CONTRIBUTING COUNTRIES AS APPROVED BY THE GENERAL ASSEMBLY IN 1980. THIS NON-RECURRING PAYMENT WAS ONLY PARTIALLY OFFSET BY INFLATION.

MR. CHAIRMAN, ON FEBRUARY 25TH OF THIS YEAR, THE UN SECURITY COUNCIL PASSED RESOLUTION 501 INCREASING THE AUTHORIZED TROOP STRENGTH FOR UNIFIL FROM 6,000 TO 7,000 MEN. THE TOTAL COST OF THIS INCREASE THROUGH FISCAL YEAR 1983 IS EXPECTED TO BE $44,208,000. THE U.S. SHARE AT 30.31 PERCENT WOULD BE $13,400,000. A FY - 1983 BUDGET AMENDMENT FOR THIS AMOUNT HAS BEEN FORWARDED TO THE COMMITTEE.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

THIS APPROPRIATION FUNDS OFFICIAL U.S. PARTICIPATION IN MULTILATERAL INTERGOVERNMENTAL CONFERENCES, CONTRIBUTIONS FOR THE U.S. SHARE OF EXPENSES OF NEW PROVISIONAL INTERNATIONAL ORGANIZATIONS, AND PARTICIPATION OF U.S. CONGRESSIONAL GROUPS IN INTERPARLIAMENTARY UNIONS. THE FISCAL YEAR 1983 REQUEST IS FOR $9,576,000 IN NEW BUDGET AUTHORITY, OF WHICH $7,840,000 IS FOR CONFERENCE PARTICIPATION, $1,496,000 IS FOR CONTRIBUTIONS AND $240,000 IS FOR THE PARTICIPATION OF U.S. CONGRESSIONAL GROUPS IN INTERPARLIAMENTARY UNIONS.

THE FISCAL YEAR 1983 REQUEST REFLECTS AN INCREASE OF $2,292,000 IN NEW BUDGET AUTHORITY FOR THIS NO-YEAR ACCOUNT WHICH IS CAUSED BY AN INCREASE OF $675,000 DUE TO PRICE INCREASES, BY INCREASED NET FUNDING REQUIREMENTS OF $893,000 FOR NEW AND PROVISIONAL ORGANIZATIONS, AND BY $724,000 TO STRENGTHEN CENTRALIZED CONTROL OVER PARTICIPATION BY THE EXECUTIVE BRANCH BY CONCENTRATING EXPENDITURES MORE THOROUGHLY IN THIS APPROPRIATION.

INCLUDED IN OUR REQUEST IS $1,653,000 FOR CONTINUED PARTICIPATION IN THE MUTUAL AND BALANCED FORCE REDUCTIONS NEGOTIATIONS (MBFR).

MR. CHAIRMAN, THIS CONCLUDES MY STATEMENT. I WILL BE HAPPY TO ANSWER ANY QUESTIONS WHICH YOU OR MEMBERS OF THE COMMITTEE MAY HAVE.

SECURITIES AND EXCHANGE COMMISSION

STATEMENT OF HON. JOHN S. R. SHAD, CHAIRMAN

ACCOMPANIED BY:
DAN L. GOELZER, EXECUTIVE ASSISTANT
GEORGE G. KUNDAHL, EXECUTIVE DIRECTOR
LAWRENCE H. HAYNES, COMPTROLLER OF THE COMMISSION

BUDGET REQUEST

Senator WEICKER. Our next request is that of the Securities and Exchange Commission. The amount requested, $84,300,00, provides for a reduction of 125 permanent positions and an increase of $1,394,000 from the current fiscal 1982 funding level.

The 125 permanent positions and corresponding staff-year decrease impacts, to varying degrees, all 8 of the Commission's programs. Offsetting the savings generating from this reduction are cost increases for within grades, executive pay, miscellaneous personnel benefits, and rental of space expenses.

Appearing on behalf of this request is John Shad, the Chairman. Mr. Shad, why don't you introduce those accompanying you, both in terms of those at the table and any commissioners who might be sitting in back of you, and then we will have your statement in its entirety included in the record.

Mr. SHAD. Thank you, Senator.

The Commission members here today are Phillip Loomis, Barbara Thomas, and Bevis Longstreth. The people here at the table with me are, on my right, the Executive Assistant, Dan Goelzer, on my left, the Executive Director, George Kundahl, and to my far left is Lawrence Haynes, the Comptroller of the Commission.

In the back of the room are the division directors of the major divisions of the Commission.

Now, do you want me to go ahead with a brief statement?

Senator WEICKER. Yes, please.

OPENING STATEMENT

Mr. SHAD. Chairman Weicker and members of the subcommittee, the Securities and Exchange Commission appreciates this opportunity to present its fiscal 1983 budget request of $84,300,000.

I would like briefly to place the Commission's budget request in context with the areas of its responsibilities, market trends, and other considerations.

The SEC's statutory mandate is to protect the Nation's 32 million investors and to maintain fair and orderly securities markets. The Commission has oversight, disclosure, and enforcement responsibilities concerning the Nation's 9,000 publicly owned corporations; 6,700 broker-dealer firms; 1,700 registered investment companies; 4,300 registered investment advisers; and the 850 accounting firms that audit public companies.

The private sector self-regulatory organizations for which it has oversight responsibility include the New York and nine other securities exchanges; the National Association of Securities Dealers; the American Institute of Certified Public Accountants; the Financial Accounting Standards Board; the Securities Investor Protection Corp.; and others.

The United States has by far the best securities markets the world has ever known—the broadest, the most active and efficient, and the fairest, due principally to the capital commitments, vitality, and industry of the private sector, but due also to the effective discharge of the foregoing responsibilities by the Securities and Exchange Commission.

The President's budget proposes an $84,300,000 fiscal 1983 appropriation for the Commission. This is a 1.7-percent increase over the continuing resolution for fiscal 1982. Because of inflationary cost increases, the $84,300,000 fiscal 1983 budget will require a reduction in the Commission's staff of 6.2 percent or 125 staff-years, from 1,890 to 1,765.

WORKLOAD AND STAFFING IMPACTS

Over the past 5 years—1977–81—the volume of trading on the New York Stock Exchange and the number of first-time corporate registrants with the SEC have more than doubled—increased 125 and 129 percent, respectively; investment company assets have nearly quadrupled—increased 290 percent; and the volume of over-the-counter trading has more than quadrupled—increased 321 percent.

During this same period—1977–81—the SEC's staff has been reduced 5 percent—from 2,117 to 2,021. And the Commission continues to lose experienced attorneys to the private sector.

In order to accommodate staff reductions in the face of rapidly rising market activity, the Commission has taken the following actions to maximize its efficient use of resources:

The Commission has simplified corporate and investment company registration and reporting requirements, without compromising the full disclosure of material information.

The quality of investigations has been improved through tighter controls, better coordination, refined case selection criteria, and enhanced staff training.

Examinations of investment companies are now tailored to conform with their particular characteristics, and investment adviser inspection cycles have been shortened by deregistering inactive entities.

Data processing capabilities are being extended to the field offices to permit use of microcomputers to analyze broker-dealer customer accounts, provide access to a legal brief index system containing court motions and memorandums, and allow the direct update of information on regulated entities.

Greater reliance is being placed on self-regulatory organizations to develop an intermarket surveillance capability and oversee the accounting profession.

Finally, the Commission is supporting repeal of the Public Utility Holding Company Act.

LOOKING TO THE FUTURE

Looking to the future, pending Glass-Steagall Act amendments would permit banks to sponsor and sell mutual funds. If passed, these amendments can be expected to increase significantly the Commission's responsibilities under the Investment Company and the Investment Advisers Acts. If only 10 percent of the Nation's 14,000 banks engage in such activities, it will result in an 82-percent increase in the number of investment companies and a 22-percent increase in the number of investment advisers, subject to the Commission's jurisdiction.

In addition, the administration's proposed amendment to Glass-Steagall would require banks to conduct their mutual fund and certain other activities within new broker-dealer affiliates, subject to the SEC's jurisdiction.

Again, if only 10 percent of the banks set up such broker-dealer affiliates, it will increase the number subject to SEC jurisdiction by 21 percent.

The added volume of such securities activities can also be expected to increase the volume of enforcement actions and public questions and complaints received and processed by the Commission.

These new investment companies, advisers, and broker-dealers would be subject to conventional filing fees and to SEC or NASD registration fees. However, fees collected by the SEC are paid to the Treasury and are not directly available to the Commission.

As the subcommittee is aware, last year, registration, filing and transfer fees amounted to 81 percent of the Commission's total budget. Thus, the Commission is largely self-sufficient.

Other members of the Commission, the staff here today, and I will be pleased to respond to your questions.

Thank you.

ADEQUACY OF APPROPRIATION REQUEST

Senator WEICKER. Thank you, Mr. Shad.

Now, Mr. Chairman, on page 2 of your statement, you state statistically a case for increasing the staff of the SEC, and, yet, the rhetoric and the submission speaks for a decrease.

We talked about doubling the volume of the New York Stock Exchange, quadrupling investment company assets, and quadrupling the volume of the over-the-counter trading, and, then, as you point out, 125 less personnel called for, 5 percent from the 4 to 5-year period, the staff is reduced 25 percent which relates to comments made by one of your members last year, but also it flies right out of the paper at you here.

Are you happy, in terms of the Conmission's request or is your submission a matter of OMB instruction?

Mr. SHAD. I think page 3 responds to page 2.

Senator WEICKER. What did I miss on page 3?

Mr. SHAD. It says what we are doing. In the general opinion of the public, Congress and the industries regulated, the SEC is doing a very effective and responsible job of enforcing the securities laws.

I would be glad to amplify that——

Senator WEICKER. Well, I think that I would hope management efficiencies could be achieved, and, yet, these statistics are so disparate that I think much of that has to be, you know, a matter of speculation as to whether you are going to be able to make up by management efficiencies what you are losing in the way of personnel.

How much of what you intend to do, for example, relies on the self-regulatory organizations to conduct oversight?

Are you really counting on that?

Mr. SHAD. They are doing a fine job. Their facilities have been significantly improved over the past 5 years.

I would like to mention two areas in particular:

In the case of the accounting profession, the AICPA has now set up an SEC practice section group, and it is conducting peer reviews where firms are examining each other in great depth at a cost to the firms involved of $50,000 or $100,000 in some cases. They are now to the point where they are on a 5-year cycle of peer reviews.

They have gone from 80 last year, to a rate for this current fiscal year of 200 peer reviews. These reviews are an exhaustive, in-depth analysis of the quality of audits.

And, of course, the Chief Accountant's Office is monitoring carefully the work papers of these peer reviews.

So by putting greater weight on self-regulation in the accounting areas, we are getting a lot of leverage on our staff and our resources.

In the securities industry area, in the stock exchanges and NASD, which are the self-regulatory organizations, there are early warning systems to identify firms that are in either operational or financial difficulty. These systems have been significantly improved and are continuing to be improved. So they are in a better position, frankly, than we are to identify and take early action to avoid serious problems within the securities industry.

In addition, the SRO's already have extensive electronic market surveillance systems, and they have made commitments to us to upgrade the quality of those in terms of auditing the transactions on the New York Stock Exchange and in intermarket surveillance.

They have excellent surveillance of the stocks themselves and the options markets, but we now need to tie together these electronic monitoring systems so that when something is going on in the options market that suggests possible manipulations, it will become apparent also to those monitoring the securities as well as the options. They are steadily upgrading the quality of the work, so I feel the self-regulatory organizations are doing an excellent job, and assuming much greater responsibility, which reduces the burden on us and gives us more leverage.

I could talk about what is going on in the enforcement area.

CONSOLIDATED FINANCIAL/INVESTMENT SERVICES

Senator WEICKER. We will get to that in a minute.

I want to move to the next step.

I have sat here and watched with fascination and with increasing trepidation, the consolidation of various investment and financial services over the past several years. Probably some of the reasons for that is increased efficiencies obtained by virtue of science. Some of them might be attributed to the fact that affordable capital is in short supply, thus putting a squeeze on the smaller guy.

But I have seen the securities industry, the real estate industry, the insurance industry, the banking industry, consolidating economic power.

And I suppose it might be a way out of some of our present difficulties by this merger, this concentration of economic power. But what if—after we have gone through this consolidation, to use the polite expression, the buffalo chips hit the fan on one of these institutions—in other words? I now get to the second part of your statement, the revision of Glass-Steagall, et cetera, and I wonder why is Glass-Steagall coming into being and all of a sudden, I pick up the newspaper and I see the name Drysdale in there, and I see the Chase Manhattan Bank, and some of the largest institutions that we have, and I say, this sort of has a familiar ring to it.

Now I would like to know from you why, under the circumstances that I have described, all of which have been totally factual and not speculative, do you feel Glass-Steagall ought to be revised?

Do you feel the Securities and Exchange Commission, as far as oversight is concerned, can afford this dimunition of this personnel? I am beginning to think that maybe things that people did back in the 1920's and 1930's were not so crazy, and that not all Government regulations and all Government laws are necessarily all bad, and, specifically, I would like to have your comment both as to my general question as well as to the very specific financial one involving the Chase Manhattan Bank and Drysdale Securities, and you might want to relate that to your push to amend Glass-Steagall.

GLASS-STEAGALL

Mr. SHAD. Maybe I should start with Glass-Steagall.

The Commission has testified before the Senate Banking Committee in favor of the Treasury Department proposed amendment to Glass-Steagall which would permit the banks to underwrite revenue bonds and sell mutual funds through separate corporate affiliates subject to the same regulations and SEC oversight as all other broker-dealers with whom they would be competing.

The alternative, which is in Senator Garn's version of the amendment, is to permit banks to engage in these activities directly and thus to give the banks substantial tax advantages, as well as the absence of equivalent regulatory requirements.

But we have gone well beyond that in recognition of some of the things you have been mentioning. The basic laws under which our financial institutions—the ones you mentioned, the banking, the insurance, the Savings and Loans and the securities industry—are regulated today are a product of the depression of a half a century ago.

The systems have grown enormously in the past 50 years, and they are no longer responsive to the kind of problems the Commission is confronted with today. Basically, today we have regulation by industry, by historical industry categories; one group of Federal and State regulators for the banking industry, another for Savings and Loans, and nothing Federal for insurance.

Insurance is only subject to State regulation, and it still has quite a number of regulators. Finally, the securities industry, which has a number of State and Federal regulators as such, but, for the very reasons you have mentioned, as a result of the enormous proliferation of products and services that bridge the gaps between these industries, plus major acquisitions which have also bridged the gaps, we are moving to major financial conglomorates like Sears Roebuck and American Express.

Senator WEICKER. Do you think that is good?

Mr. SHAD. Yes.

Senator WEICKER. You do?

Mr. SHAD. And I will be glad to amplify why I think it is good.

The securities industry is a feast and a famine industry that has been under-capitalized in periods of stress, and by and large it is conducted in a partnership rather than a corporate form.

There are only a handful of firms publicly owned, so when the partners want to withdraw, they can.

I would say that if General Motors had grown up through the partnership form rather than the corporate, we would still be riding bicycles, and yet that is the traditional form for the securities industry.

It is a very difficult way to accumulate capital in today's economy.

Senator WEICKER. But the Commission you head was not so much concerned with the well-being of the partners as it was the public.

Mr. SHAD. That is where we were, and that is why I think the financial conglomorates have enormous balance sheets and stability as compared to the individual security.

CHASE MANHATTAN BANK

Senator WEICKER. Well, is there anybody that would have dreamed—anybody, including a U.S. Senator—that would have dreamed that the Chase Manhattan Bank would have gotten into the fix it got into?

Why is it necessary, why is there this big mess, the greater protection to the public?

The thought of institutions was rocked suddenly by Chase.

Mr. SHAD. It is.

Senator WEICKER. Both in terms—not in terms of its management decisions by friends.

Mr. SHAD. In terms of its balance sheet.

Senator WEICKER. But I am asking you, in other words, certainly nobody is going to accuse the Chase Mahattan Bank of being a marginal effort or borderline situation, or a speculative organization in its approach, yet look what happened to it?

Mr. SHAD. Let me just put it in perspective.

Senator WEICKER. I don't understand that. I wonder what if Sears gets into everything, what if Sears goes under?

Mr. SHAD. Can I respond on the Drysdale matter first, and then go on to Sears?

Senator WEICKER. Yes.

Mr. SHAD. Last year, Chase earned approximately $443 million after taxes. If they have to take the entire loss from the second quarter it would be I suspect, $130 million. The SEC has issued a formal investigation into Drysdale——

Senator WEICKER. I realize that, and I know that limits your response, and I want you to understand, Mr. Chairman, that you have to go no further.

Mr. SHAD. In terms of the press reports, I suspect, and it is only a suspicion, that these losses are more dramatic than the actual situation of the Chase Mahattan and the other firms involved with the Chase. They still reserve their right to lay off some of the consequences of Drysdale.

But $130 million after taxes is based on $270 million as opposed to the actual initial amount of interest on $160 million.

If they have to take the entire $270 million, the $130 million will have a severe impact on the second quarter, but no impact on the balance, just less return on their multimillion-dollar balance sheet. Certainly the Chase is in no way jeopardized by this incident, not at all.

Now, going further, Drysdale—there are 36 Government securities dealers that are under the oversight of the Fed, and Drysdale is one of those that is not. But it was entirely—and this is very important, I think—it was entirely dealing with other securities firms, principally through the Chase or directly in some cases with the Chase and one institution.

The public is not in anyway jeopardized by this incident, and I think that is a terribly important fact. None of the public was involved.

Senator WEICKER. Well, I understand the small point you are trying to make. There are not 1,000 investors out there—but I think it raises real questions as to the Government's role over this whole financial industry as to whether this is the time that it can play a lesser role in its watchdog capacity, and let self-regulation take over.

That is really the issue involved.

I figure if somebody like Drysdale and Chase—whoever else is involved in this whole scheme—obviously they are big boys, they can handle themselves.

Mr. SHAD. I agree.

Senator WEICKER. I wonder what happens in a situation where there are some little people involved. I just have to wonder about that, when

I see this can go on, and intelligent men can make these kinds of mistakes, then what is the potential in other areas?

SECURITIES INDUSTRY SELF-OVERSIGHT

Mr. SHAD. First of all, I cannot say this of personal knowledge, but I can say as a former executive of a securities firm, that certainly all of Wall Street has reacted to this and long before any instrument could be created to inquire into this—the firms won't expose themselves to a continuation of these types of risks.

I can just see the executive committees throughout Wall Street reacting to this. If U.S. Steel entered into a contract with a subcontractor and they defaulted on it, I don't think anybody would be calling for a Federal regulatory agency to regulate how U.S. Steel deals with its subcontractors. They have their own balance sheet and they have a hell of a lot more perception into how to deal with subcontractors than any Government agency has.

So they will deal with their problems responsibly and with great concern and efficiency, and I can assure you that is exactly what is going on in Wall Street today in reacting to Drysdale.

The public was not involved, and, in this case, a subcontractor of the Chase defaulted, and you can be sure some people at Chase will be in the frying pan and will come up with a better way of peeling off interest payments to use when they buy these bonds with accrued interest as it comes due. Drysdale received it and used it to speculate in additional positions. Wall Streeet is going to deal with that.

DRYSDALE

Senator WEICKER. What is the SEC role at the present time? You say there is a SEC investigation?

Mr. SHAD. Yes, there is, an inquiry into whether or not there was fraud involved. The Drysdale financial records are in terrible shape. Arthur Andersen is in there reconstructing them. Our people are also contacting all the other securities firms that were known to be on the other side of the trades, as is the New York Stock Exchange which has direct oversight of those firms. The Treasury is in there, and the Fed is in there, so all of the Federal agencies concerned are doing a responsible investigation. And, once the results become known, Congress will have the opportunity, if it wishes, to take action on it.

Could I just mention a few other things?

Senator WEICKER. Go ahead.

FINANCIAL CONGLOMERATIONS

Mr. SHAD. There is an idea that the smaller firms are being squeezed out through this conglomeration of financial services. Actually, the remnants are far more profitable. The statistics on member firms doing public business show that the major national firms do not enjoy as great a profit margin as the regional firms do. So it is not a case of the smaller firms in financial difficulties being forced out. It is an election, and there certainly are advantages of size, scale, and so forth; but I believe that as long as I am alive there will be a great number of, you might say, financial boutiques and specialty firms doing a very professional job for selected segments of the market. There are firms offering highly personalized attention or institutional firms doing specialized research for segments of industries as well as the investment banking firms. You have the fully integrated firms like Merrill Lynch, both brokers and bankers, and you have a number of great firms that are purely specialized investment banking firms not doing a broad public business. I think we will continue to have these elements in the securities industry.

Senator WEICKER. I suppose one of my philosophical problems is being the chairman of the Small Business Committee and seeing what is happening in the real estate field, the little guy being folded into a fat operation, now what? The savings and loans are trying to sell insurance.

Mr. SHAD. Insurance and securities, they are setting up to enter the brokerage business.

Senator WEICKER. There is no point you and I getting into a debate, but I have been a great believer that the more out there, the better the competition and the lower the price. The way things are going, we will have about five people doing everything.

Mr. SHAD. Each of the major industries.

Senator WEICKER. This came forcibly home to me—and of course you have better statistics than I—but I was talking to a friend of mine who works for Merrill Lynch, and I indicated to him that he should have no problems, that they were No. 1, and he said "we are no longer No. 1." They were about No. 5 or 6 after you went through that group of mergers with American Express and Sears and all the rest. It is just mind-boggling.

Mr. SHAD. Let me go the other way, however; that may have been said by somebody with Merrill Lynch. But some of the bankers are saying that Merrill Lynch is the largest banking entity because of their cash management account.

Senator WEICKER. That may be true, and that is what worries me. To me it is the first five or six. I just wonder whether the protections to the public are out there and are as effective in terms of a dozen or so firms handling all types of financial services. Obviously this came to pass by virtue of situations back in the 1920's and 1930's where one or two collapsed and took everything with them. Maybe we are heading in that same direction.

REGULATION OF SECURITIES INDUSTRY

I don't see where the securities industries have really suffered from the regulations of the 1930's. They have enjoyed indeed their biggest growth, if you will, and always with the knowledge that the public is being protected. That is the only purpose of my inquiries.

I am not really dealing as to whether Sears is bigger than Merrill Lynch or whether American Express is bigger than the Bank of America. I really don't care about that. I care only how it affects the public. I don't see where regulation in this particular instance has been all that bad, which does not mean to say that obviously everybody should not be in fine tune. Nobody is saying laws on the books 40 or 50 years ago are all right today, but I am worrying that everybody is dismissing history as never being able to happen again.

Mr. SHAD. You have raised some very broad major issues. I think one thing you can't repeal is over-optimism and over-pessimism, and we will continue to have speculative excesses and recessions and perhaps even depressions, but I think the next serious collapse, if there is one, will be for different reasons than in the 1920's. In the 1920's the banks were carrying about 95 percent of the credit in the stock market. They were financing the stock market excesses, and that was one of the reasons for putting a higher margin requirement into law.

Today stock market financing by the banks is a fraction, a tiny fraction of their total outstanding loans. The area to worry about, in my opinion, is consumer credit, which is blown out of all proportions to the 1930's; in fact it is partly because of the 1930's. During the depth of the depression, people paid their installment credit, and it built such a great record that today everybody is trying to get more consumer credit on the books, to the point that people are living off their next raise. They are buying things in expectation of credit and in expectation of higher incomes to service that credit, and I am more worried by that.

Senator WEICKER. But on that point, probably the biggest holder of consumer credit is American Express, or is one of the biggest, and it just sits out there.

Mr. SHAD. It has a huge float.

Senator WEICKER. And now it is in the securities business.

Mr. SHAD. But that is not consumer credit in the securities business; they have margin accounts.

Senator WEICKER. I am talking about consumer credit.

Mr. SHAD. Right, they don't have that. I am talking about buying automobiles, GMAC is a huge company, carrying commercial credit. Every bank has consumer credit, whether it is washing machines or any consumer durables. It is true, when you get down to soft goods, they are all being bought on credit cards, but that is short term, not long term. Long term is when you buy an automobile, or even a house if you want to get into the mortgage area.

So I agree completely with what you are saying. I think the securities industry is very supportive of the SEC. Some people feel it should be an adversarial relationship. I grew up on Wall Street, I was there for 33 years, and during that time I felt that the compliance requirements, the preparation of the registration statements, and the other requirements of the Commission were exceptionally helpful. I have had recent meetinqs with the Executive Committee of the SIA, which is the Securities Industries Association—it is the largest trade association of the industry, and it includes all the firms from the very big ones to the small ones. They are universal in their support. They want to see the bad guys drummed out. They know their jobs and the effectiveness of our markets depend on investor confidence. They want investor confidence in the whole security industry and know the industry is built on that.

Underwriters will not underwrite issues unless they have confidence in the issuer, other firms will not participate in syndicates unless they have confidence in the job the underwriter does, and the public in turn will not buy the issue unless they have confidence in the issuer and the salesman.

Senator WEICKER. Well, I do not think we are so much at odds. I see the Federal Trade Commission leaving the field; I see the Justice Department leaving the field; I see the Securities and Exchange Commission playing a lesser role. I am philosophical. I am not a great believer in the Federal Government, but I understand that there are certain areas where it has to play the key role in the preservation of competition, preservation of integrity, and all of our financial activities throughout the Nation. These are the areas in which the average guy on the street feels there is protection afforded. Right now I am afraid he does not understand much of that protection is being left to a greater extent to an ad hoc position, and I worry about that.

So, in any event, only because we will be voting shortly, I have some questions I am going to submit for the record.

I have one question here specifically and the rest will be submitted for the record.

STATUS OF FISCAL 1982 POSITIONS

The Senate provided an increase of 39 positions in the fiscal year 1982 budget for the Commission. It is my understanding that these positions have not been able to be filled because OMB is requiring you to absorb all of your pay increase, rather than submit a supplemental. Is that correct?

Mr. SHAD. Yes.

Senator WEICKER. Did you inform OMB that taking the money provided by Congress for your program is really violating congressional intent?

Mr. SHAD. I cannot say we advised them of that as such, but they were well aware of the additional 39 positions—and that they had required us to absorb the cost-of-living increase and the executive pay increase which cost $3.2 million. The additional positions amounted to $1 million. So we had to also squeeze another $2 million out of other areas.

Senator WEICKER. What did the Commission request of OMB to cover the October and January increases?

Mr. SHAD. I will let Mr. Haynes answer that.

Mr. HAYNES. We requested $2,240,000 for the October pay increase. All of this was denied. We did not request any funds for the January executive pay increase, which totaled $681,000.

Senator WEICKER. Assuming a supplemental is enacted by August 1, how much does the Commission need to fund these positions?

Mr. HAYNES. Approximately $200,000.

TRIBUTE TO COMMISSIONER LOOMIS

Senator WEICKER. I would like to take special note this morning of Commissioner Loomis, who is retiring from the Commission after nearly 30 years of public service, first as a member of the staff, and then General Counsel, and since 1971 as a member of the Commission.

Commissioner Loomis has served Republican and Democratic administrations, the industry, and individual stockholders with integrity and dedication.

I am reminded of a statement you delivered last year, Commissioner, to the subcommittee regarding the budget submitted by OMB for the Commission. Commissioner Loomis was very forthright in his statement expressing concern for damage that could be done to stockholders due to reductions that were proposed.

In any event, I just feel that somebody with your ability and your candor and your courage is needed more than ever in Government today. I do not want to let the moment go by without giving you a special tribute.

Commissioner Loomis. Thank you very much.

Mr. SHAD. I would like to join in that. [Applause.]

ADDITIONAL COMMITTEE QUESTIONS

Senator WEICKER. We will insert the balance of the questions in the record at this point.

[The following questions were not asked at the hearing but were submitted to the Commission for response subsequent to the hearing:]

ADDITIONAL COMMITTEE QUESTIONS

Disclosures in Registration Statements

Q. *How does the selective review process which involves selecting some companies for review and some for no review assure the adequacy of disclosures in registration statements?*

A. Selective review has been designed to concentrate the staff's limited resources on the highest priority areas and to deal as efficiently as possible with the increasing number of filings received on an annual basis. Under selective review, we identify certain areas of workload both under the 1933 and 1934 Acts where the timely Federal review presence must be maintained. For example, first time filers are fully reviewed since such filings mark the company's initial entry into the Federal disclosure system.

At the present time, the decision to fully review a 1933 Act filing or a 1934 Act report made by a company already reporting to the Commission is determined by the identification of companies which because of certain financial characteristics are most likely to be in need of full review, among other things. We therefore cannot assure the adequacy of disclosure in all filings, however, it is hoped that most fraud or misrepresentation is deterred in the first place by a "sunshine" effect of the full disclosure which is fostered by the Division's review (or threat of review) activity.

Regional office filings have been helpful to small businesses because of the availability of assistance. In 1983 we expect 12,650 filings in the regions and 70,000 filings in headquarters. In order for headquarters staff to review these filings, particularly the 1,165 registration statements by new issuers, 113 percent more staff years will be required at headquarters than available to all regions.

Underwrite Securities by Banks

Q. *What impact would legislation allowing banks to underwrite securities have on the full disclosure program's review of company filings?*

A. It is understood that the Senate Banking Committee has introduced a bill, S-1720, which would permit banks to underwrite municipal revenue bonds and allow banks to sponsor mutual funds. Since Section 3(a)(2) of the Securities Act of 1933 (the "Act"), exempts securities by states and political subdivisions from the registration provisions of the Act, it is not anticipated that this provision of the bill, if enacted in its present form, will affect the Division's full disclosure program. Allowing banks to sponsor mutual funds will require compliance with the Investment Company Act of 1940, administered by the Commission's Division of Investment Management but should have no direct impact on the full disclosure program administered by the Division of Corporation Finance.

Recent Innovations Increase Productivity

Productivity increases in the complaint processing function of the Prevention and Suppression of Fraud program has resulted from recent innovations.

Q. *What specific innovations increased the productivity?*

A. FY 1982 the Commission expects fully to implement a direct data input system. This will improve the timeliness of data contained in reports generated monthly which display the volumes of complaints with respect to various registered entities and the types of complaints received. These data are useful in the conduct of the Commission's examination and enforcement programs.

It is planned that in FY 1983 a full interactive input and retrieval system will be implemented which will permit examination and enforcement staffs to research fully contemporaneous records. In addition, the range of search capabilities will be expanded. Many of the hard-copy reports now necessary will be eliminated.

Q. *What cost savings resulted from these innovations and why were these innovations not implemented in 1982?*

A. The direct input system eliminates the cost of keypunching, since data is entered directly by the offices which record and code complaints and inquiries. The interactive retrieval system will reduce the cost of preparation of a number of hard-copy reports and the costs associated with mailing to regional and branch offices. The development of the interactive retrieval system is delayed until FY 1983 because of staff time constraints in the Office of Information Systems Management.

Investigation and Prosecution Costs

Last year SEC said that it was prohibited from recovering its investigation and prosecution costs by the 1933, 1934 and 1940's Act.

Q. *Would you support legislation to require recovery of your costs in negotiating settlements by consent decrees?*

No, because it would tend to create disincentives to settlements. Consent decrees are extremely useful in enforcing the securities laws, and enable the Commission to avoid the substantial costs of litigation. They also allow speedy resolution of cases, usually by the defendant or respondent agreeing to an injunction from future violations or a suspension or bar from doing business. Sometimes consent decrees also involve disgorgement of illegal gains. Requiring recovery of the Commission's costs as well would tend to discourage some defendants and respondents from settling.

The Commission would, however, support legislation which would permit it to recover costs in defending actions against the Commission or members of the staff where the Commission or its staff prevails.

Donation of time to Government

Q. *The budget justification states that the staff of the Prevention and Suppression of Fraud program donated 43,250 hours to the Government. Last year the SEC reported nearly 36,000 hours being donated by your staff.*

What has the rate of attrition been during this same period of time?

A. Although it is unclear for what period of time data is being requested, the attrition rate for the Commission for FY 1981 was 293 separations from 2,021 authorized positions or 14.5%. For the first third of FY 1982, 107 separations were recorded. Since attorneys in the regional offices frequently work in more than one program, comparable data specifically for the full Prevention and Suppression of Fraud Program is unavailable.

To what extent are you relying on the staff continuing to donate time to meet the projections in this budget?

A. Donated time is not explicitly considered when projections are estimated. However, since the 42 staff years of donated time in FY 1981 represents 2.1% of the total staff resources available in FY 1981, if no donated staff time was received during FY 1983, a reduction of approximately 2% in the Commission's work could be expected. Planned productivity improvements would tend to reduce the impact of any reduction in donated time.

Interviewing Witnesses

Q. *In 1981 you reported interviewing 3,639 witnesses on the record and paid approximately $174,806 in compensation to these witnesses. This is about $48 per witness. In 1983 you estimate that you will interview 3,100 witnesses on the record and pay them $81,200 in compensation or about $27 a witness.*

Would you explain how you expect to achieve these economies? What types of procedures do you have to assure that witnesses are interviewed only when they have material information to add to the investigation?

A. We anticipate that witness costs will increase in the future. However, as a consequence to recent increases in the cost of travel and the Commission's current budgetary restrictions, a concerted effort is being made to hold witness expenses to the minimum by having witnesses come into a Commission office or going to them, whichever is less expensive. In many cases, an office conducting an investigation will obtain the assistance of another office located closer to a potential witness in the taking of testimony, although this may require additional preparatory work by the assisting office. In addition, a number of cases which might have been handled by the home office in the past have been assigned to regional offices in an effort to minimize travel costs.

In part, the reduced number of witnesses anticipated reflects reductions in staff between fiscal year 1981 and the estimate for 1983, which will result in fewer investigations and fewer enforcement actions. In addition, enforcement program managers in the home office and the various regional offices are responsible for supervision of the progress of an investigation, including judgments under the circumstances of a particular case as to which witnesses are likely to provide material information that will assist in completing an investigation. To the extent that these managers must exercise more care in allocating available resources, there may be a tendency to require a greater probability that potential witnesses will be able to provide material information and to avoid interviewing witnesses located far from the office conducting an investigation, unless there is a strong probability that material information will be uncovered or that the assistance of another office can be obtained.

The amount of witness expenses that will be incurred in a particular year is very difficult to predict because it depends not only on the number of witnesses who are called in, but also on the distance that they travel and the number of claims that they file.

No additional funds to develop Inter-market Surveillance System

Q. *The SEC will not have to expend additional funds to further develop its own inter-market surveillance system because the self-regulatory organizations have agreed to assume the primary role.*

Is the inter-market surveillance system referred to the same as Market Oversight and Surveillance System (MOSS)?

A. The SEC Intermarket Surveillance System is a principal part of the MOSS program.

Q. *If yes, how much has the SEC spent for MOSS and why did the SEC undertake MOSS at the expense of the public taxpayers when the self-regulatory organizations could have funded an inter-market surveillance system?*

A. To date the SEC has spent approximately $1,275,000 on MOSS hardware and software development. At the time the SEC undertook to develop MOSS none of the SROs was engaged in any systematic intermarket trading surveillance, nor did they suggest that they would be prepared to deal with setting up such a system.

Over-the-counter Securities

Recently the NASD has announced a program to execute trades on 40 over-the-counter securities automatically through a computerized execution system.

Q. *If such a system had all of the necessary controls and handled all of the trading in securities, would this be the national securities market Congress required in 1975?*

A. In the Securities Acts Amendments of 1975, Congress did not "require" any specific type of national market system. Rather, Congress determined only to describe the very broad goals to govern that system and left it to the Commission and the industry to work toward a national system. While the ability to achieve automatic execution of 40 over-the-counter ("OTC") stocks (these are securities designated as national market system, or "NMS" securities) will be a significant step toward the goals of a national market system by increasing efficiency of execution and enhancing opportunities to ensure best execution, this step in and of itself will not, and could not, be the accomplishment of that system. The computerized trading system will be used only on a voluntary basis by broker-dealers and is applicable only to the most actively traded OTC stocks and to OTC trading of listed stocks. This computerized execution system will have no effect on the trading in exchange markets, which continue to be the dominant markets for securities traded on those exchanges. Furthermore, it has been the Commission's position that no single method of trading securities should be required; rather the Commission believes that new trading vehicles should be developed and offered to the industry, and broker-dealer's reactions and competitive forces should determine whether such new trading vehicles will play a major role in the national market system.

Q. Would the establishment of a "black box" national securities market system significantly reduce the oversight demands of the SEC?

A. The establishment of locked-in trades executed automatically through a computerized system (commonly referred to as a "black box") would reduce the oversight demands both of the Commission and the self-regulatory organizations because such a system would be capable of providing a full audit trail documenting each trade. Any benefits of reduced oversight, however, might be outweighed by the potential harm to our securities markets attendant to the establishment of such a system as the sole method of trading. A fully automated system would require a radical departure from the current method of securities trading and might result in the elimination, or substantial reduction in trading on exchange floors. Because the Commission believes the risks attendant to mandating such a major structural change outweigh any potential benefits, the Commission believes that the preferable method to facilitate the development of a national market system is to permit the development of a number of linked trading markets and to allow competitive forces within the industry to be determinitive as to the desirability of alternative trading vehicles.

Q. What progress did you make in 1981 towards the goal of a national market system?

A. The Commission made significant progress toward the goal of a national market system in 1981. After two years of frequent attempts to encourage the industry to develop voluntarily a linkage between the OTC and exchange markets, the Commission issued an order which requires the current participants in the Intermarket Trading System ("ITS") and the National Association of Securities Dealers, Inc. ("NASD") to implement an automated interface between those two markets for certain newly-listed securities. The Order, as recently amended, would require implementation of that interface by May 1, 1982. In issuing the Order, the Commission stated that the interface will permit market professionals to route orders efficiently between the two types of markets and therefore will significantly further the goals of a national market system. The Commission also adopted Rule 11Aa2-1 under the Securities Exchange Act to provide for the designation of certain securities traded in the OTC market as qualified for trading in the national market system. The effect of the rule is that, for the first time, transactions in certain securities traded solely in the OTC market will be reported in a real-time system and that quotations for such securities will be firm as to the quoted price and size. Rule 11Aa2-1 significantly furthers the national market system by responding to Congress' directive in Section 11A(a)(2) of the Exchange Act to "designate securities or classes of securities qualified for trading in the national market system . . ." Finally, the Commission proposed amendments to Rule 11Aa1-1 under the Exchange Act governing the collection and dissemination of quotation information. Those amendments, adopted in early 1982, permit regional exchange specialists and third market makers to disseminate quotations on a voluntary, rather than mandatory basis. The Commission believes that these amendments will foster the national market system by eliminating unnecessary regulatory burdens on secondary market makers and enhancing the accuracy and reliability of quotation information.

Broker-dealer Oversight

Most of the Commission's broker-dealer oversight is conducted at the regional offices. Staff reductions will reduce the examination capacity of these offices.

Q. *If any difficulties arise, such as the Paine Weber and Bache crises in 1980, would the Commission be able to offer the same level of assistance to the securities firms before the public and other firms are endangered?*

A. The Commission would in the future, as it has done in the past, reorder its priorities and shift staff to deal with any major crisis in the securities market. Under the proposed budget the Commission believes that it could supply the same level of assistance as it did in the Paine Weber and Bache matters. Its capability to deal with lesser problems may be reduced if examination staff is decreased, but it is expected that the self-regulatory organizations will augment their own programs in this area to help assure an adequate measure of investor protection.

Recently the NASD has announced a program to execute trades on 40 over-the-counter securities automatically through a computerized execution system.

1981 Postponement of Rule-making Proposals

The Division of Market Regulation had to postpone several rule-making proposals during 1981, including efforts to ease restrictions on financial responsibility rules for broker-dealers.

Q. *What priorities had the Division set for itself if proposals must be delayed as a result of limited resources?*

A. At the proposed staffing levels, delays in the development of Commission rules and rule modifications will be encountered during the balance of fiscal 1982 and of fiscal 1983. In that area, the Division has given top priority to those initiatives that are designed to ease and clarify existing regulatory restrictions for broker-dealers and other regulated segments of the industry. This priority will be continued as a part of the Commission's overall effort to reduce regulatory costs and impediments to capital-raising by securities issuers, thereby facilitating national economic recovery. New initiatives, including development of a comprehensive regulatory program to combat abuses in the markets in debt and debt-related instruments (such as forward contracts in government guaranteed securities), markets that have experienced explosive growth in recent years, will be deferred or postponed.

Q. *In what areas will the Commission be able to reduce and simplify the burdens and costs of regulatory requirements?*

A. The Commission expects to complete the first phase of its work in the area of financial responsibility requirements during the second half of fiscal year 1982 and to make significant additional progress, but at a somewhat reduced rate, during fiscal year 1983. Further, proposals to revise Commission rules governing market trading in the course of securities distributions and other proposals designed to mitigate as well as clarify present restrictions have recently been published and other initiatives that would have similar objectives are being formulated.

Q. *How will these initiatives increase investor protection?*

A. The Commission believes that the presently contemplated reductions in regulatory burdens and costs will not diminish investor protection. Any risks that might otherwise have accompanied such reductions should be offset by the changes in market conditions and the numerous operational and surveillance systems improvements that have taken place since the rules in question were adopted. Moreover, the Commission has sought to meet any residual risks by working with the self-regulatory organizations to upgrade these organizations' primary role as the Commission's regulatory presence decreases. Additionally, where outmoded regulations are removed or industry compliance with current requirements is simplified, investors should be ultimate beneficiaries in terms of incurring lower transaction costs.

The SEC will not have to expend additional funds to further develop its own intermarket surveillance system because the self-regulatory organizations have agreed to assume the primary role.

Public Utility Holding Company Act

Q. *The SEC is recommending to the Congress repeal of the Public Utility Holding Company Act of 1935. This recommendation is based on the belief that continued Federal regulation of utility holding companies is inappropriate. In the past, the SEC has proposed that the Act's responsibility should be shifted to the Federal agency responsible for the energy area.*

What caused the SEC to now call for outright appeal of the 1935 Act?

A. Within a short period of time recently, three different gas and electric utility groups submitted to the Commission and Congress different proposals to amend the 1935 Act. While each proposal separately had merit, taken together they would have the practical effect of virtually repealing the Act while leaving the Commission with limited after-the-fact oversight authority. In reviewing these proposals, the Commission considered the nature of the abuses that led to the original passage of the Act, the fact that the Commission's main task under the Act of reorganizing the nation's gas and electric utility holding company systems has been completed, the likelihood of recurrence of the original abuses, and the apparent effect on the industry as a whole of continued Commission administration of the Act. The Commission concluded that the original abuses are unlikely to recur for reasons extrinsic to the 1935 Act. Given the Commission's continuing concern that unnecessary regulatory burdens be eliminated, the Commission concluded that repeal of the Act was preferable to any or all of the amendment proposals.

How would you reprogram the staff and money devoted to this area if the 1935 Act is repealed?

A. If the repeal of the Public Utility Holding Company Act requires no workload and the Appropriations Committees permit the reprogramming of Public Utility resources, the "freed-up" staff could be used to accomplish various tasks previously defined by Congress. These tasks include regulatory reform, capital formation, regulatory efficiency, and law enforcement activities.

Investment Management

Q. *According to the justification, the SEC is considering a proposal for a new type of investment trust that could* *operate without being subject to many of the regulatory provisions of the Investment Company Act.*

What is the status of this proposal and when is final Commission action scheduled?

A. The staff is continuing to consider this proposal. Besides the possibility of creating a new type of investment trust which would be exempt from many of the regulatory provisions of the Act, the staff believes it is now appropriate, given recent industry trends, to consider proposing to make such exemptions available to existing investment companies, provided adequate investor protections are maintained. Due to the complexity of the issues involved, as well as the potential impact upon the industry, the staff believes that it may be advisable to publish initially an advance concept release which solicits general comments upon the approach being considered. At this time we cannot predict when the Commission will take action on these proposals.

Investment Management Regulation

Q. *Staff resources in Investment Management Regulation will decline from 193.6 to 178.7 staff years in 1983. At the same time the number of investment companies and investment advisors is continuing to increase.*

Recently the Commission concluded that -- while desirable -- it is not necessary to conduct annual inspections of money market funds. Beginning in 1983, these funds will be inspected every 2 years -- even though they account for two-thirds of total investment company assets.

To what extent did the current budget crunch influence this decision?

A. Although any decision regarding the allocation of resources inevitably must take into consideration the total amount of resources available, we believe that conducting full or limited inspections of each money market fund every two years will provide adequate investor protection. When the first spurt in the growth of money market funds occurred in 1979, many funds were unprepared for the heavy influx of investors. Consequently, many of the funds' operational systems were overloaded, resulting in deficiencies and violations. In order to stay on top of these problems and to be able to take action to prevent them from worsening and eventually causing losses to investors, we decided that annual inspections of the money funds were necessary. Accordingly, the staff has done annual inspections of all money market funds since 1979.

Most money market funds have installed operational systems that, we believe, can adequately cope with the flow of purchase and redemption orders despite the continuous increase in the assets managed by and the number of investor accounts with the funds. In addition, the funds appear to have become sufficiently aware of Commission regulations and policies governing their activities that our examiners believe that a less frequent inspection cycle would be adequate. Thus, for FY-83 we are planning a two-year inspection cycle for money market funds.

In this regard it should be noted that with a two-year cycle, roughly one-half of all money funds would be inspected every year, with the inspections alternating between full and limited. Given the many similarities that exist among money market funds, we believe that a two-year cycle will enable the staff to keep abreast of, and respond to, new developments in the industry. We also intend to examine all newly registered money funds that are not part of a complex with another money fund within ninety days after commencement of the public offering. The examinations of new money funds should enable us to catch most deficiencies early, before they can have an adverse effect on investors.

Transferring or Eliminating Staff in Office of Opinions and Review

Q. The justification states that greater cost-efficiency would be achieved if 7 of the 9 staff members of the Office of Opinions and Review were transferred or eliminated in 1983. However, the workload of the Office is expected to increase.

How do you expect the Office to handle the same workload with such a substantial reduction in staff?

A. The budget estimate was based on the transfer of opinion-writing responsibilities to the offices of the respective commissioners, augmented by a skeletal staff in the Office of Opinions and Review to provide oversight and coordination. Current plans, however, have shifted towards reducing the staff of the existing office which would retain full responsibility for opinion-writing. This plan is thought to be feasible due to the productivity initiatives in that office which include more critical review of requests for oral arguments and changes in the internal processing of draft opinions.

Legal Services -- Number of Counsels

Q. The objective of your Office of the General Counsel is to serve as the SEC's attorney. In 1981, this organization had 86.3 actual staff years and is being reduced to 75.7 for fiscal 1983. A review of the SEC's divisions and office staffing shows that many have their own office of Chief Counsel. For example, the Division of Corporation Finance has a chief counsel, a deputy chief counsel and a number of special counsels, while the Division of Market Regulation has two counsels to the Office of Director. Even the SEC Executive Director has a special counsel. In sum total there are about 34 - 40 persons in the SEC's division and offices who serve as counsels but are not in the Office of General Counsel.

If the General Counsel is the SEC's attorney, what are the duties of the counsels assigned to the divisions and offices?

A. The Chief Counsels and their staffs of the Division of Corporation Finance and Market Regulation, as well as the other counsels in the Division of Market Regulation, respond to public requests for interpretative and other legal advice in the areas of their operational responsibilities -- the day-to-day administration of the disclosure and regulatory provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934, as well as advising the Commission regarding their rulemaking functions under those Acts. Those counsels also advise the operating staffs of the Divisions on day-to-day interpretive and administrative matters, and assist on special projects for their divisions. The chief counsels of the other operating divisions provide similar services with respect to their operational responsibilities. The Special Counsel to the Executive Director is responsible for legal analysis and advice to the Executive Director, its staff, and other senior management officials concerning the full range of programs administered by the Executive Director such as personnel, printing and publications, and formulation of the Commission's procurement policy, as well as the array of administrative and procedural requirements imposed by other agencies, including GSA, OMB, and GAO. In contrast, the Office of the General Counsel provides advice and information to the public and the Commission on:

(1) matters relating to statutes and rules of general applicability not under the operational responsibility of the operating divisions, such as the Freedom of Information Act, the Privacy Act, the Government in the Sunshine Act, the Administrative Procedure Act, the Right to Financial Privacy Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, the Equal Access to Justice Act, and the Commission's rules of procedure;

(2) the Office's legal positions in cases and administrative proceedings for which it is responsible; and

(3) the Commission's legal and policy positions on legislation proposed and pending before the Congress.

The Office also counsels the operating divisions on novel legal issues arising from litigation, and assists in coordinating legal positions of the divisions to assure uniformity and consistency.

The Office conducts all litigation in the U.S. Courts of Appeal and the Supreme Court and defends the Commission in all civil actions brought against the SEC or its staff. A facet of this litigation activity involves participation as amicus curiae in private civil cases where necessary to protect the Commission and/or investor interests. In 1981 alone the Office represented the Commission in over 1,000 cases and filed over 400 briefs and memoranda of law. This represented 44.4 staff years.

Q. *If these employees are providing legal advice to SEC staff, why are they not assigned to the General Counsel's Office?*

A. As stated above, in addition to providing legal advice to the SEC staff, the Chief Counsels of the operating Divisions and their staffs provide a wide variety of advice and information to the public. Their legal advice to the staff relates to a myriad of day-to-day operational interpretive legal, administrative, and enforcement matters. It is more efficient to have such legal personnel specialize in these operational areas and for the operating staff to have close and convenient physical access to them than to attempt to centralize these functions physically.

Cutting of Economic Analysis Unit

Q. *The Commission is further moving along a de-regulatory path which will have major impact on the capital formation process, investor protection process and fair and efficient securities trading processes. In addition, new requirements such as the Regulatory Flexibility Act place additional demands for in-depth analysis of the impact of rule changes. Yet faced with this need for more information on areas impacted by rule changes, the SEC is slashing its economic analysis unit by 28 percent.*

Would you explain the decision process and rationale for these cuts and how you intend to compensate for reductions in this area?

A. The proposed cuts in the Directorate of Economic and Policy Analysis would affect primarily that unit's ability to gather and publish statistical information of general public interest. These cuts would not substantially affect the Directorate's ability to monitor the impact of existing Commission rules or advise the Commission with respect to the potential impact and cost and benefits of deregulatory or other rule proposals.

The Directorate does have responsibilities with respect to the implementation of the Regulatory Flexibility Act, but the Commission does not believe that the proposed cuts would jeopardize its ability to discharge those responsibilities. Much of the work under that statute is performed in the Office of the General Counsel and the various operating divisions. Of course, there is some overlap between the Directorate's statistical operations and its analytical work so that its capability to perform its analytical functions will be reduced. The Commission believes, however, that the Directorate's more significant responsibilities will continue to be discharged so as to keep pace with the Commission's deregulatory momentum.

Toll-free Hot-line Service

Q. *GAO in 1980 recommended SEC install a toll-free hot-line to handle public complaints. Last year the Commission said a toll-free hot-line would require too much staff time to implement.*

Would the Commission submit for the record its cost analysis of GAO's recommendation and comment on whether any productivity gains would be achieved by centralizing the handling of these phone calls in one or two offices?

A. A former director of the Office of Consumer Affairs conducted a study of toll-free hot-lines in 1979. He concluded, based upon his experience with regular incoming telephone calls, that there would be an additional expense for service and staff time and it would not be possible to predict any gain in productivity.

The principal reason is that most of the complaints received do not lend themselves to analysis, resolution or reply without a written statement and supporting documentation. Telephone calls tend, therefore, to duplicate rather than substitute for other efforts.

With respect to centralizing of phone calls as presently handled, the Commission's internal telephone director "yellow pages" contain a listing for "Complaints by Investors" and list the number of the Office of Consumer Affairs and Information Services. To the extent all members of the staff refer calls according to that directory, handling now is centralized.

Preliminary Minutes Taken by Secretary's Office

Q. *The Secretary's Office prepares 4,350 pages of preliminary minutes but only 1,150 pages in the final copy.*

Why is there a 3,200 page difference?

A. The number of pages of preliminary minutes should be corrected to read 3,450 pages representing exactly three times the number of pages of final copy. The first 1,150 pages represent draft pages prepared by the Recording Secretaries responsible for the Minutes of Commission meetings. This first draft is given to the word-processing text-editing clerical assistant who programs and inputs these minutes into the computer system. This margin numbered copy, which is the second set of 1,150 pages, is circulated to the Secretary of the Commission and a Legal Assistant in a Commissioner's office for comment and review. After any corrections are made, the third set of 1,150 pages, a formatted justified revised draft copy is then extracted from the computer system, copies of which are circulated to the Commissioners. Periodically, several months of these drafts are reviewed by the Assistant Secretary to make certain that release numbers, file numbers, etc. which might be missing, are inserted, and that Commission directives have been followed or the reasons prohibiting their implementation accounted for in the minutes.

SEC Move

Q. *The SEC is planning to move into a new consolidated headquarters building.*

As of January 31, 1982, how much was expended for the move to the new building?

A. As of January 31, 1982, no Commission funds were expended for the consolidated headquarters move.

Will the staff have the same amount of space as they currently have?

A. No. The Commission presently occupies 295,000 square feet in its three headquarters buildings. The consolidated building will provide only 264,000 square feet.

Will SEC's furniture be adequate in the new building or does the SEC intend to ask for additional funds?

A. The Commission will purchase carpeting for the Chairman and Commissioners' offices in the new headquarters. The Commission does not have any plans to request additional funds from Congress for the procurement of furniture. Existing furniture is being repaired for continued use, where necessary. After consolidation, if appropriated funds remain available within guidelines established by the Appropriation Committees, the Commission will purchase a few selected items, such as tables and chairs for additional conference rooms being created in the new building.

Will the new office building provide more space to the public reference function of the SEC and will it be more convenient to the public to access SEC records?

A. There will be a minor increase (300 sq ft) in the amount of space that the Public Reference Room will have in the new building versus the current building. The access to the Commission's records in the new building will be improved immensely, due to the fact that the receipt of documents will be in the same building and on the same floor, thus eliminating the burdensome task of transporting documents received on North Capitol Street to the Public Reference Room at L Street. The Commission also plans to provide wider aisle space in the document storage area to facilitate user accessibility.

Fraud and Disclosure Programs

Q. *We have been continually interested in assuring that the SEC has adequate resources -- particularly in the Fraud and Full Disclosure Programs. I note that personnel reductions are proposed in each area this year. Given the resources in this budget, do you perceive any major problems the Commission could not respond to?*

A. The major problem facing the Commission is that of effectively overseeing and regulating an ever increasing workload base. Over the past five years the volume of shares traded on the

New York Stock Exchange has increased 125%; the market value of these shares has increased 77%; the market value of investment company assets has increased 340%; the number of first time registrants has increased 129%; and the NASDAQ volume of shares traded over-the-counter has increased 321%.

The Commission could also be faced with significant workload increases as the result of pending amendments to the Glass-Steagall Act. These amendments would permit banks to sponsor and sell mutual funds and to conduct their activities using new broker-dealer affiliates, subject to SEC regulation. If enacted, and if only 10% of the banks engaged in securities activities of some kind, some 1,400 new investment companies, investment advisers, and broker-dealer affiliates would be created.

Staffing Levels

Q. *As your justification indicates, the staffing levels are below what is considered adequate for the SEC to carry out its responsibilities. At times, Government employees are assigned to work with other agencies, such as the Department of Justice.*

For FY 1981, provide the number of SEC employees who worked with other agencies, the average time of their assignment and who paid the employee's salary and personnel benefits?

A. In fiscal 1981, the following employees were detailed to other agencies or departments of the government for the periods indicated. With one exception, as noted, the SEC paid all salary and personnel benefits costs.

Employee	Acquiring Department	Length of Detail
GS-14 Attorney	U.S. Attorney. S.D.N.Y.	12 months
GS-12 Attorney	U.S. Senate	9/81-8/82
GS-11 Analyst	OMB	7/81-2/82
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	9 months
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	12 months
GS-13 Examiner	U.S. Attorney, S.D.N.Y.	11 months
GS-13 Examiner	U.S. Attorney, S.D.N.Y.	1 month
GS-13 Examiner	U.S. Attorney, E.D.N.Y.	1 month
GS-13 Investigator	U.S. Attorney, N.J.	10 months
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	6 months
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	12 months
GS-12 Investigator	U.S. Attorney, S.D.N.Y.	8 months
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	1 month
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	6 months
GS-9 Investigator	U.S. Attorney, S.D.N.Y.	5 months
GS-13 Investigator	U.S. Attorney, S.D.N.Y.	1 month
GS-12 Attorney	U.S. Attorney, S.D.N.Y.	2 months
GS-12 Investigator	U.S. Attorney, S.D.N.Y.	1 month
GS-11 Investigator	U.S. Attorney, S.D.N.Y.	1 month
GS-15 Attorney*	Action	4 months

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* SEC was reimbursed salary costs

Accomplishments in Equal Employment Opportunity

Q. *The budget justification does not include 1981 accomplishments in the area of equal employment opportunity.*

What is the SEC doing to promote equal employment opportunity for its employees?

A. The Chairman of the SEC is responsible for implementation of the equal employment program. By appropriate agency delegation, the Chairman has assigned to the EEO Director, Phillip H. Savage, the responsibilities for ensuring compliance with all equal employment requirements of the SEC, the U.S. Civil Service Commission, and present laws and court decisions.

Presently, the EEO Director has a full-time staff consisting of a Deputy Director and a secretary. He is also assisted by agency personnel who in addition to their regular duties, on a part-time basis, perform such advisory functions as EEO Counselors, EEO investigators, Federal Women's Program Managers, and Hispanic Employment Program Managers. In addition, personnel from other offices, such as Personnel, General Counsel, and the Executive Director, provide, when necessary, support and advisory service to the EEO Director.

1. EEO Counselors. Twenty individuals serve in this capacity on a part-time basis; four are located in the headquarters offices and the remaining sixteen are located in fourteen regional and branch offices.

2. Federal Women's Program Managers (FWPM). A woman holds national FWPM position on a part-time basis, aided by a FWPM committee and the Deputy EEO Director. In addition, nine other regional offices are assisted on a part-time basis by individuals designated as Federal Women's Program Managers.

3. Hispanic Employment Program Managers (HEPM). An employee of Hispanic background serves as national HEPM, assisted by a committee of other employees and the Deputy EEO Director. In addition, seven other regional offices are assisted on a part-time basis by individuals designated as Hispanic Employment Program Managers.

4. EEO Investigators. They are designated upon receipt of EEO complaints to investigate such matters and to prepare an investigative file for the EEO Director and the complainant.

In addition, the Office of Personnel manages the following programs that assist in the recruitment, hiring and development of minority employees: (1) Handicap Employment Program; (2) The conduct of an annual Job Fair designed to attract minority law students to the Commission; (3) The Federal Equal Employment Opportunity Recruitment Program; (4) Development of procedures for implementing the part-time employment act; and (5) Upward Mobility Program.

Q. *Could you provide a list of EEO complaints outstanding as of December 31, 1981, with the date when complaints were filed?*

A. There were 14 outstanding EEO complaints as of December 31, 1981. Dates of these complaints are as follows: December 1, 1976, July 20, 1977, May 3, 1978*, December 8, 1978*, November 9, 1979, December 15, 1979, April 9, 1980*, January 31, 1981*, December 10, 1980*, July 18, 1980*, December 17, 1980*, July 20, 1980*, May 4, 1981*, July 21, 1981.

* Settled or pending settlement since January 1982.

Q. *Could you provide information on how many EEO complaints were filed with the SEC for the last 3 fiscal years and how many resulted in a finding of discrimination?*

A. Complaints filed during the last 3 fiscal years:

	1979	1980	1981
Amount	4	7	9
Resulted in findings of discrimination	0*	0*	0*

* Most complaints settled prior to issuance of finding.

Q. Do the SEC contracts for SES employees include EEO goals? If yes, what percentage of the overall goal was obtained?

A. EEO goals are included in all contracts for SES employees. Percentages for these goals are not available because numerical goals are not used. However, goals have been written for each contract. Generally, SES employees are evaluated for their achievements and contributions toward the Commission's overall Equal Employment Opportunity Program and affirmative action goals. In addition, those executives who are division directors or office heads are responsible for numerical goals under the Commission's Affirmative Action Plan.

SPECIAL ANALYSIS OF POSITIONS

Senator WEICKER. Senator Hollings has furnished me a special analysis of positions that was prepared by the minority staff. In accordance with his request, Senator Hollings' letter and the report will be printed in the record at this point.

[The information follows:]

LETTER FROM SENATOR ERNEST F. HOLLINGS

APRIL 27, 1982.

HON. LOWELL P. WEICKER,
Chairman, Senate Appropriations, Subcommittee on State, Justice, Commerce and the Judiciary, 313 Russell Senate Office Building, Washington, D.C.

DEAR LOWELL: The minority staff has put together the following special analysis of positions. This report is designed to show how any funding cuts affect personal changes in fiscal years 1981, 1982, and 1983. A breakdown by number of Washington, field, and overseas positions is provided for all departments and agencies under the subcommittee's jurisdiction.

I request that this special analysis of positions be placed in the record for easy reference by all the subcommittee's members.

With kindest regards,

Sincerely yours,

ERNEST F. HOLLINGS,
Ranking Minority Member,
Senate Appropriations,
Subcommittee on State, Justice, Commerce and the Judiciary.

SPECIAL ANALYSIS OF POSITIONS

	Fiscal year—			Net change	Percent change
	1981	1982	1983		
COMMERCE AND RELATED AGENCIES					
Department of Commerce:					
Washington	13,462	12,785	10,394	-3,098	-29.5
Field	10,343	10,173	9,526	-817	-8.6
Overseas	771	803	837	66	8.6
Total	24,576	23,761	20,757	-3,819	-18.4
Related agencies:					
Washington	6,539	6,110	5,688	-871	-15.4
Field	5,867	5,440	5,042	-825	-16.3
Total	12,406	11,550	10,710	-1,696	-15.8

SPECIAL ANALYSIS OF POSITIONS—Continued

	Fiscal year—			Net change	Percent change
	1981	1982	1983		
COMMERCE AND RELATED AGENCIES—Con.					
Total, Commerce and related agencies:					
Washington	20,001	18,895	16,062	-3,939	-24.5
Field	16,210	15,613	14,568	-1,642	-11.3
Overseas	771	803	837	66	8.6
Total	36,982	35,311	31,467	-5,515	-17.7
JUSTICE AND RELATED AGENCIES					
Department of Justice:					
Washington	14,505	14,086	13,667	-838	-6.1
Field	41,,174	40,301	40,182	-992	-2.5
Total	55,679	54,387	53,739	-1,940	-3.6
Related agencies:					
Washington	925	900	882	-43	-4.8
Field	2,747	2,674	2,611	-136	-5.2
Total	3,672	3,574	3,493	-179	-5.1
Total, Justice and related agencies:					
Washington	15,430	14,986	14,549	-881	-6.0
Field	43,921	42,975	42,793	-1,128	-2.6
Total	59,351	57,961	57,232	-2,119	-3.7
STATE AND RELATED AGENCIES					
Department of State:					
Washington	5,553	5,450	5,518	-35	-.6
Field	985	902	899	-86	-9.6
Overseas	9,861	9,600	9,749	-112	-1.1
Total	16,399	15,952	16,166	-233	-1.4
Related agencies:					
Washington	3,382	3,392	3,378	-4	-.1
Field	251	256	256	5	2.0
Overseas	4,766	4,760	4,761	-5	-.1
Total	8,399	8,408	8,395	-4	-0.0
Total, State and related agencies:					
Washington	8,935	8,842	8,896	-39	-.4
Field	1,236	1,158	1,125	-111	-9.9
Overseas	14,627	14,360	14,510	-117	-.8
Total	24,798	24,360	24,561	-288	-1.0

SPECIAL ANALYSIS OF POSITIONS—Continued

	Fiscal year—			Net change	Percent change
	1981	1982	1983		
STATE AND RELATED AGENCIES—Continued					
Judiciary:					
Washington	1,478	1,576	1,502	24	1.6
Field	12,752	13,438	14,443	1,691	13.3
Total	14,230	14,914	15,945	1,715	12.0
Grand total:					
Washington	45,844	44,299	41,009	-4,835	-11.8
Field	74,119	73,184	72,929	-1,190	-1.6
Overseas	15,398	15,163	15,347	-51	-.3
Total	135,361	132,646	129,285	-6,076	-4.7

DEPARTMENT OF COMMERCE

ANALYSIS OF DIRECT (NONREIMBURSEABLE) POSITIONS

SUMMARY

	Washington	Field		Total
		United States	Overseas	
Number of permanent positions authorized:				
Fiscal year:				
1981	13,462	10,343	771	24,576
1982	12,785	10,173	803	23,761
1983	10,394	9,526	837	20,757
Number of permanent positions filled:				
As of September 30, 1981	12,703	9,393	702	22,798
As of January 31, 1982	12,618	9,541	721	22,880
Projected September 30, 1982	12,088	9,334	794	22,216
Projected September 30, 1983	10,035	8,819	828	19,682

GENERAL ADMINISTRATION

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	603	79	682
1982	501	79	[1] 580
1983	445	79	524
Number of permanent positions filled:			
As of September 30, 1981	487	76	563
As of January 31, 1982	527	73	600
Projected September 30, 1982	445	79	524
Projected September 30, 1983	445	79	524

[1] Includes 174 perm positions requested by fiscal year 1982 supplemental.

BUREAU OF THE CENSUS

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	2,127	435	2,562
1982	1,918	495	2,413
1983	1,970	495	2,465
Number of permanent positions filled:			
As of September 30, 1981	2,107	435	2,542
As of January 31, 1982	2,065	488	2,553
Projected September 30, 1982	1,918	495	2,413
Projected September 30, 1983	1,970	495	2,465

BUREAU OF THE CENSUS—ANALYSIS OF WASHINGTON AND FIELD PERMANENT POSITION—NONREIMBURSABLES

	September 1981 authorization		September 1982 authorization		September 1983 authorization		September 1981 end of year		As of January 1982		September 1982 end of year		September 1983 end of year	
	Salaries and expenses	Periodics	Salaries and expenses	Periodics	Salaries and expenses	Periodics	Salaries and expenses	Periodics	Salaries and expenses	Periodics	Salaries and expenses	Periodics	Salaries and expenses	Periodics
Total	2,010	552	1,881	532	1,933	532	2,010	532	2,005	548	1,881	532	1,933	532
Washington, D.C	1,720	407	1,579	339	1,631	339	1,720	387	1,700	365	1,579	339	1,631	339
Field—outside D.C	290	145	302	193	302	193	290	145	305	183	302	193	302	193
Boston, Mass	10	10	10	9	10	9	10	10	10	10	10	9	10	9
New York, N.Y	8	8	7	7	7	7	8	8	8	8	7	7	7	7
Philadelphia, Pa	9	9	8	8	8	8	9	9	9	9	8	8	8	8
Detroit, Mich	11	10	8	8	8	8	11	10	11	9	8	8	8	8
Chicago, Ill	8	8	7	7	7	7	8	8	8	7	7	7	7	7
Kansas City, Kans	10	10	8	8	8	8	10	10	10	10	8	8	8	8
Seattle, Wash	10	10	8	8	8	8	10	10	9	9	8	8	8	8
Charlotte, N.C	8	8	7	7	7	7	8	8	8	8	7	7	7	7
Atlanta, Ga	10	10	9	9	9	9	10	10	10	10	9	9	9	9
Dallas, Tex	10	10	9	9	9	9	10	10	10	10	9	9	9	9
Denver, Colo	10	10	8	8	8	8	10	10	9	10	8	8	8	8
Los Angeles, Calif	9	8	9	9	9	9	9	8	8	8	9	9	9	9
Total, 12 regional offices	113	111	98	97	98	97	113	111	110	108	98	97	98	97
Jeffersonville, Ind	177	29	204	96	204	96	177	29	195	73	204	96	204	96
Pittsburgh, Kans														
New Orleans, La		3												
Laguna Niguel, Calif														
Jeffersonville, Ind. Procurement Center		2						2		2				
Total, other	177	34	204	96	204	96	177	34	195	75	204	96	204	96

NATIONAL TECHNICAL INFORMATION SERVICE

STRS direct	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	13		13
1982	5		5
1983	2		2
Number of permanent positions filled:			
As of September 30, 1981	13		13
As of January 31, 1982	9		9
Projected September 30, 1982	5		5
Projected September 30, 1983	2		2

NATIONAL BUREAU OF STANDARDS

	Washington	Field[1]	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	1,606	198	1,804
1982	1,545	192	1,737
1983	1,424	192	1,616
Number of permanent positions filled:			
As of September 30, 1981	1,559	198	1,757
As of January 31, 1982	1,503	192	1,695
Projected September 30, 1982	1,503	192	1,695
Projected September 30, 1983	1,382	192	1,574

[1] All National Bureau of Standards field positions are in Boulder Colo.

PATENT AND TRADEMARK OFFICE

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	2,834		2,834
1982	[1] 3,036		[1] 3,036
1983	[2] 1,450		[2] 1,450
Number of permanent positions filled:			
As of September 30, 1981	2,579		2,579
As of January 31, 1982	2,551		2,551
Projected September 30, 1982	[1] 2,881		[1] 2,881
Projected September 30, 1983	[2] 1,450		[2] 1,450

[1] Includes 172 permanent positions requested in pending 1982 supplemental budget request.

[2] Beginning in fiscal year 1983, 1,701 permanent positions are to be paid for with reimbursable fees. Total positions have been increased (1,450 plus 1,701 equals 3,151 permanent positions).

ATTACHMENT 1

Fiscal year 1982 position decreases (field locations)

California:	
Bishop	−2
Mount Shasta	−3
Oakland	−2
Riverside	−5
Stockton	−2

ATTACHMENT 1—Continued

Fiscal year 1982 position decreases (field locations)—Continued

Florida:	
Fort Myers	−3
Tampa	−5
Georgia:	
Rome	−2
Illinois:	
Cairo	−3
Louisiana:	
Alexandria	−2
Nebraska:	
Valentine	−2
New Jersey:	
Trenton	−2
New Mexico:	
Clayton	−2
Poswell	−2
New York:	
Albany	−5
North Carolina:	
Asheville	−20
Oregon:	
Burns	−2
Klamath Falls	−2
Pennsylvania:	
Reading	−2
Puerto Rico:	
San Juan	−5
Texas:	
Brownsville	−5
Lubbock	−5
Utah:	
Milford	−2
Virginia:	
Lynchburg	−2
Norfolk	−21
Washington:	
Seattle	−70
Wisconsin:	
Milwaukee	−5
West Virginia:	
Parkersburg	−3
Total	−186

ATTACHMENT 2

Fiscal year 1983 position decreases (field locations)

Alabama:	
Auburn	−3
Alaska:	
Anchorage	−1
Auke Bay	−7
Juneau	−15
Kodiak	−3
St. George	−1
St. Paul	−1

ATTACHMENT 2—Continued

Fiscal year 1983 position decreases (field locations)—Continued

Arizona:	
Phoenix	−1
Yuma	−2
Calilfornia:	
Eureka	−1
Fresno	−1
Los Angeles	−1
Reading	−3
Riverside	−7
Terminal Island	−3
Tiburon	−16
San Francisco	−2
Colorado:	
Boulder	−85
Connecticut:	
Milford	−11
Florida:	
Miami	−47
St. Petersburg	−1
Tampa Bay	−3
Georgia:	
Macon	−2
Idaho:	
Boise	−3
Twin Falls	−1
Illinois:	
Chicago	−2
Indiana:	
Lafayette	−5
Louisiana:	
New Orleans	−2
Maryland:	
Oxford	−16
Massachusetts:	
Boston	−2
Gloucester	−54
Woods Hole	−4
Michigan:	
Ann Arbor	−57
Mississippi:	
Bay St. Louis	−9
Pascagoula	−1
Stonesville	−4
Missouri:	
Kansas City	−2
Montana:	
Billings	−1
Great Falls	−1
New Mexico:	
Albuquerque	−1
New York:	
Stony Brook	−9
North Carolina:	
Asheville	−1

ATTACHMENT 2—Continued

Fiscal year 1983 position decreases (field locations)—Continued

Oregon:	
Medford	−1
Pendleton	−1
Portland	−1
Salem	−2
Pennsylvania:	
Philadelphia	−1
South Carolina:	
Charleston	−8
South Dakota:	
Rapid City	−1
Texas:	
Brownsville	−3
College Station	−5
Fort Worth	−32
Galveston	−22
Utah:	
Salt Lake City	−4
Virginia:	
Norfolk	−20
Washington:	
Seattle	−98
Wenatchee	−3
West Virginia:	
Charleston	−1
Wisconsin:	
Milwaukee	−1
Total	−596

DEPARTMENT OF COMMERCE

ANALYSIS OF DIRECT (NONREIMBURSABLE) POSITIONS[1]

NATIONAL OCEANIC AND ATOMOSPHERIC ADMINISTRATION

	Washington	Field		Total
		United States	Overseas	
Number of permanent positions authorized:				
Fiscal year:				
1981	3,560	8,847	88	12,495
1982	3,260	8,661	88	12,009
1983	2,697	8,065	88	[2] 10,850
Number of permanent positions filled:				
As of September 30, 1981	3,362	7,947	79	11,388
As of January 31, 1982	3,472	8,110	71	11,653
Projected September 30, 1982	2,894	7,854	79	10,827
Projected September 30, 1983	2,453	7,373	79	9,905

[1] While total numbers reflect current ceilings, breakouts of those numbers are offered for illustration or comparison porposes only. In the event of an actual reduction in force, distributions may be modified.

[2] 163 positions associated with weather station closings in the fiscal year 1983 budget have been added back to total.

U.S TRAVEL AND TOURISM ADMINISTRATION

	Washington	Field overseas	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	30	45	75
1982	40	45	85
1983	20	45	65
Number of permanent positions filled:			
As of September 30, 1981	29	38	67
As of January 31, 1982	29	38	67
Projected September 30, 1982	30	45	75
Projected September 30, 1983	20	45	65

MINORITY BUSINESS DEVELOPMENT AGENCY

ANALYSIS OF DIRECT (NONREIMBURSABLE) POSITIONS REGIONAL OFFICES

	1981	1982	1983[1]
Atlanta	21	21	19
Chicago	29	29	26
Dallas	23	23	20
New York	22	22	19
San Francisco	26	26	23
Washington, D.C. field office	22	22	19
Total	143	143	126

[1] A reduction of 17 positions has been pro-rated among the six regional offices for comparison purposes. However, a final decision has not been made as to the distribution of the reduction.

DEPARTMENT OF COMMERCE

ANALYSIS OF DIRECT (NONREIMBURSABLE) POSITIONS

MINORITY BUSINESS DEVELOPMENT AGENCY

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	153	143	296
1982	153	143	296
1983	135	126	261
Number of permanent positions filled:			
As of September 30, 1981	131	124	255
As of January 31, 1982	129	122	251
Projected September 30, 1982	132	128	260
Projected September 30, 1983	114	111	225

INTERNATIONAL TRADE ADMINISTRATION

	Washington	Field United States	Field Overseas	Total
Number of permanent positions authorized:				
Fiscal year:				
1981	1,303	353	638	2,294
1982	1,258	395	670	2,323
1983	1,248	438	704	2,390
Number of permanent positions filled:				
As of September 30, 1981	1,309	338	585	2,232
As of January 31, 1982	1,275	325	612	2,212
Projected September 30, 1982	1,258	395	670	2,323
Projected September 30, 1983	1,248	438	704	2,390

REGIONAL DEVELOPMENT PROGRAM

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	13	0	13
1982	0	0	0
1983	0	0	0
Number of permanent positions filled:			
As of September 30, 1981	13	0	13
As of January 31, 1982	6	0	6
Projected September 30, 1982	0	0	0
Projected September 30, 1983	0	0	0

ECONOMIC DEVELOPMENT ADMINISTRATION

ANALYSIS OF DIRECT (NONREIMBURSABLE) POSITIONS

FIELD POSITIONS

	1981	1982	1983
Atlanta	42	29	18
Austin	37	25	15
Chicago	37	25	15
Denver	30	20	12
Philadelphia	57	38	24
Seattle	44	30	19
Total	247	167	103

DEPARTMENT OF COMMERCE

ANALYSIS OF DIRECT (NONREIMBURSABLE) POSITIONS

ECONOMIC DEVELOPMENT ADMINISTRATION

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	302	247	549
1982	205	167	372
1983	127	103	230
Number of permanent positions filled:			
As of September 30, 1981	302	247	549
As of January 31, 1982	250	205	455
Projected September 30, 1982	205	167	372
Projected September 30, 1983	127	103	230

ECONOMIC AND STATISTICAL ANALYSIS

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	699		699
1982	686		686
1983	708		708
Number of permanent positions filled:			
As of September 30, 1981	619		619
As of January 31, 1982	625		625
Projected September 30, 1982	644		644
Projected September 30, 1983	666		666

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

	Washington	Field[1]	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	219	41	260
1982	178	41	219
1983	168	28	196
Number of permanent positions filled:			
As of September 30, 1981	193	28	221
As of January 31, 1982	177	26	203
Projected September 30, 1982	173	24	197
Projected September 30, 1983	158	28	186

[1] All NTIA field positions are in Boulder, Colo.

CHANGES IN FIELD POSITIONS BY STATE

	1982	1983	Total
Alabama:			
Auburn (NOAA)	0	-3	-3
Alaska:			
Anchorage (NOAA)	0	-1	-1
Auke Bay (NOAA)	0	-7	-7
Juneau (NOAA)	0	-15	-15
Kodiak (NOAA)	0	-3	-3
St. George (NOAA)	0	-1	-1
ST. Paul (NOAA)	0	-1	-1
Total	0	-28	-28
Arizona:			
Phoenix (NOAA)	0	-1	-1
Yuma (NOAA)	0	-2	-2
Total	0	-3	-3
California:			
Bishop (NOAA)	-2	0	-2
Eureka (NOAA)	0	-1	-1
Fresno (NOAA)	0	-1	-1
Los Angeles (CEN) (NOAA)	+1	-1	0
Mount Shasta (NOAA)	-3	0	-3
Oakland (NOAA)	-2	0	-2
Reading (NOAA)	0	-3	-3
Riverside (NOAA)	-5	-7	-12
San Francisco (MBDA) (NOAA)	0	-5	-5
Stockton (NOAA)	-2	0	-2
Terminal Island (NOAA)	0	-3	-3
Tiburon (NOAA)	0	-16	-16
Total	-13	-37	-50
Colorado:			
Boulder (NOAA) (NBS) (NTIA)	-6	-98	-104
Denver (CEN) (EDA)	-14	-8	-22
Total	-20	-106	-126
Connecticut:			
Milford (NOAA)	0	-11	-11
Florida:			
Fort Myers (NOAA)	-3	0	-3
Miami (NOAA)	0	-47	-47
St. Petersburg (NOAA)	0	-1	-1
Tampa (NOAA)	-5	-3	-8
Total	-8	-51	-59
Georgia:			
Atlanta (CEN) (EDA) (MBDA)	-15	-13	-28
Macon (NOAA)	0	-2	-2
Rome (NOAA)	-2	-0	-2
Total	-17	-15	-32
Idaho:			
Boise (NOAA)	0	-3	-3
Twin Falls (NOAA)	0	-1	-1
Total	0	-4	-4

CHANGES IN FIELD POSITIONS BY STATE—Continued

	1982	1983	Total
Illinois:			
Cairo (NOAA)	-3	0	-3
Chicago (CEN) (EDA) (MBDA) (NOAA)	-14	-15	-29
Total	-17	-15	-32
Indiana:			
Jeffersonville (CEN)	+92	0	+92
Lafayette (NOAA)	0	-5	-5
Total	+92	-5	+87
Kansas:			
Kansas City (CEN)	-4	0	-4
Louisiana:			
Alexandria (NOAA)	-2	0	-2
New Orleans (CEN) (NOAA)	-3	-2	-5
Total	-5	-2	-7
Maryland:			
Oxford (NOAA)	0	-16	-16
Massachusetts:			
Boston (CEN) (NOAA)	-1	-2	-3
Gloucester (NOAA)	0	-54	-54
Woods Hole (NOAA)	0	-4	-4
Total	-1	-60	-61
Michigan:			
Ann Arbor (NOAA)	0	-57	-57
Detroit (CEN)	-5	0	-5
Total	-5	-57	-62
Mississippi:			
Bay St. Louis (NOAA)	0	-9	-9
Pascagoula (NOAA)	0	-1	-1
Stoneville (NOAA)	0	-4	-4
Total	0	-14	-14
Missouri:			
Kansas City (NOAA)	0	-2	-2
Montana:			
Billings (NOAA)	0	-1	-1
Great Falls (NOAA)	0	-1	-1
Total	0	-2	-2
Nebraska:			
Valentine (NOAA)	-2	0	-2
New Jersey:			
Trenton (NOAA)	-2	0	-2
New Mexico:			
Albuquerque (NOAA)	0	-1	-1
Clayton (NOAA)	-2	0	-2
Poswell (NOAA)	-2	0	-2
Total	-4	-1	-5

CHANGES IN FIELD POSITIONS BY STATE—Continued

	1982	1983	Total
New York:			
Albany (NOAA)	-5	0	-5
New York (CEN) (NBDA)	-2	-3	-5
Stony Brook (NOAA)	0	-9	-9
Total	-7	-12	-19
North Carolina:			
Asheville (NOAA)	-20	-1	-21
Charlotte (CEN)	-2	0	-2
Total	-22	-1	-23
Oregon:			
Burns (NOAA)	-2	0	-2
Klamath Falls (NOAA)	-2	0	-2
Medford (NOAA)	0	-1	-1
Pendleton (NOAA)	0	-1	-1
Portland (NOAA)	0	-1	-1
Salem (NOAA)	0	-2	-2
Total	-4	-5	-9
Pennsylvania:			
Philadelphia (CEN) (EDA) (NOAA)	-21	-15	-36
Reading (NOAA)	-2	0	-2
Total	-23	-15	-38
Puerto Rico:			
San Juan (NOAA)	-5	0	-5
South Carolina:			
Charleston (NOAA)	0	-8	-8
South Dakota:			
Rapid City (NOAA)	0	-1	-1
Texas:			
Austin (EDA)	-12	-10	-22
Brownsville (NOAA)	-5	-3	-8
College Station (NOAA)	0	-5	-5
Dallas (CEN) (NBDA)	-2	-3	-5
Fort Worth (NOAA)	0	-32	-32
Galverston (NOAA)	0	-22	-22
Lubbock (NOAA)	-5	0	-5
Total	-24	-75	-99
Utah:			
Milford (NOAA)	-2	0	-2
Salt Lake City (NOAA)	0	-4	-4
Total	-2	-4	-6
Virginia:			
Lynchburg (NOAA)	-2	0	-2
Norfolk (NOAA)	-21	-20	-41
Total	-23	-20	-43
Washington:			
Seattle (CEN) (EDA) (NOAA)	-88	-109	-197
Wenatchee (NOAA)	0	-3	-3
Total	-88	-112	-200

CHANGES IN FIELD POSITIONS BY STATE—Continued

	1982	1983	Total
West Virginia:			
Charleston (NOAA)	0	-1	-1
Parkersburg (NOAA)	-3	0	-3
Total	-3	-1	-4
Wisconsin:			
Milwaukee (NOAA)	-5	-1	-6

ANALYSIS OF POSITIONS

JUSTICE

OFFICES, BOARDS AND DIVISIONS[1]

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	4,311	7,359	11,670
1982	4,072	7,044	11,116
1983	4,023	6,837	10,860
Number of positions filled:			
As of September 30, 1981	4,270	6,025	10,295
As of January 31, 1982	4,280	5,897	10,177
Projected September 30, 1982	4,489	6,200	10,689
Projected September 30, 1983	4,449	6,144	10,593

[1] Includes general administration, Parole Commission, general legal activities, Foreign Claims Settlement Commission, Antitrust Division, attorneys and marshals, and Community Relations Service.

FEDERAL BUREAU OF INVESTIGATION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	7,154	11,792	19,306
1982	7,602	11,854	19,456
1983	7,309	11,739	19,048
Number of positions filled:			
As of September 30, 1981	7,091	11,014	18,105
As of January 31, 1982	6.919	10,903	17,822
Projected September 30, 1982	7,396	11,388	18,784
Projected September 30, 1983	7,390	11,379	18,769

DEA

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	835	3,257	4,092
1982	790	3,163	3,953
1983	790	3,163	3,953
Number of positions filled:[1]			
As of September 30, 1981	710	3,155	3,865
As of January 31, 1982	699	3,050	3,749
Projected September 30, 1982	730	3,146	3,876
Projected September 30, 1983	730	3,146	3,876

[1] Field positions include 200 located in the Washington metro area.

OJARS

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	455	45	500
1982	281		281
1983	195		195
Number of positions filled:			
As of September 30, 1981	320		320
As of January 31, 1982	309		309
Projected September 30, 1982	261		261
Projected September 30, 1983	190		190

INS

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	1,153	9,733	10,886
1982	1,105	9,499	10,604
1983	1,108	9,553	10,661
Number of positions filled:			
As of September 30, 1981	888	8,534	9,422
As of January 31, 1982	880	8,417	9,297
Projected September 30, 1982	949	9,595	19,544
Projected September 30, 1983	954	9,647	10,601

FEDERAL PRISON SYSTEM

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	237	8,988	9,225
1982	236	8,741	8,977
1983	236	8,786	9,022
Number of positions filled:			
As of September 30, 1981	229	8,299	8,528
As of January 31, 1982	223	8,243	8,466
Projected September 30, 1982	236	8,509	8,745
Projected September 30, 1983	236	8,483	8,719

LETTER FROM CHARLES R. NEILL

APRIL 26, 1982.

MR. WARREN KANE,
Professional Staff Member, Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR MR. KANE: This is to respond to your followup inquiry about the changes that may be occuring in the staffing of the field offices of the Department of Justice from 1981 to 1983. Generally, organizations do not provide budget detail by field location to the Department. Instead, they concentrate on building-up or breaking down their estimates by activity and decision unit or program. This is particularly true for the law enforcement agencies where the allocation of resources must respond to changing circumstances.

Although we cannot be very precise, I believe that the following observations about employment within each appropriation should be helpful.

General administration.—In both 1982 and 1983, the general administration program has about 730 positions and little over 760 work-years budgeted. Except for a small number of auditors, the staff is assigned to the Washington, D.C. metropolitan area. No changes are proposed in the number of people assigned to field offices.

Parole Commission.—The 1983 request proposed 157 permanent positions, a reduction of 15 from 1982. For work-years, the 161 request is a reduction of 6 from 1982. The Parole Commission plans to spread these reductions among the regional and headquarters offices.

General legal activities.—This appropriation is budgeted to support between 2,700 and 2,800 positions and work-years in both 1982 and 1983, a decrease from 1981. Over 90 percent of all employment is and will remain in the Washington area. Although field offices have been established for several of the legal divisions, no field offices are scheduled to either increase or decrease in size. The 11 positions and 10 work-years proposed for transfer from the Criminal Division to the U.S. attorneys involve no field reductions because these positions are currently assigned to work in U.S. attorneys offices.

Antitrust Division.—Fiscal constraint in 1982 has led the Antitrust Division to examine closely every aspect of its budget and reduce expenditures wherever possible. After careful considertion, and other budget-cutting steps, it was determined that closure of the Los Angeles field office and the transfer of all of its personnel to the U.S. attorney's office in that city, as well as the transfer of 20 other attorneys from the Division's Washington headquarters and its other seven field offices to other U.S. attorney offices was necessary to meet its 1982 budget. The program decrease proposed in the 1983 budget request would not impact on the Division's field office staffing level.

U.S. attorneys and marshals.—Except for a small executive office of the U.S. attorneys, the staff of the U.S. attorneys is assigned to 94 district offices. Based on reported work and anticipated workload changes, the number of employees is reviewed periodically for assignment of manpower resources. Usually reallocations are small, but significant law enforcement problems, like the one that currently exists in south Florida, may result in large changes.

For the bankruptcy trustees the program will require the elimination of 133 field positions. These positions are currently headquartered in Alexandria, Birmingham, Boston, Chicago, Dallas, Denver, Los Angeles, Minneapolis, Newark, and New York. Although budgetary restraints have made office closings an issue, adequate resurces are available to maintain the program through the end of fiscal year 1982.

The Marshal's Service like the U.S. attorneys are headquartered in Washington and have 94 district offices. Manpower allocations are regularly made to these offices on the basis of a workload formula developed jointly with the Department and the Marshals Service. In 1983, the Marshals Service is scheduled to lose 50 permanent positions and 50 work-years for the service of private process. The workforce that remains will be distributed on the basis of the formula, except as exceptions are authorized by the Director of the U.S. Marshals Service.

Community Relations Service.—In 1982, the Community Relations Service had 100 positions and 102 work-years authorized. The 1983 budget proposes a reduction of 12 positions and 10 work-years. Ten of the positions will come from the 10 regional offices and 2 from headquarters. No decision has yet been made on which offices would be affected but it is extremely unlikely that any reductions would be made in the southeast region.

Federal Bureau of Investigation.—The Federal Bureau of Investigations (FBI) request for 1983 request nonrecurring decreases of 408 positions and work-years. A decrease of 13 is requested in the records management area while the remaining 395 are for unfilled and unfunded positions. Although there is no real impact of this reduction against either 1981 or 1[illegible] employment, the FBI states that 293 positions are from headquarters staff and that the remaining 115 are scattered across the 59 field offices.

Immigration and Naturalization Service.—Because of a large budget amendment in 1982 that was partially approved by Congress, the Immigration and Naturalization Service (INS) will increase its employment in both the headquarters and the field. If INS reaches the employment levels projected for fiscal year 1982, there would be no further growth in 1983 except for the 57 positions and 57 work-years requested for the reception/processing/and care of Cubans and Haitians. Many of these increases, however, are not expected to result in inceased employment in INS. If a Department proposal to shift responsibility for long-term detention to the Bureau of Prisons occurs, only 15 of the 57 positions requested would remain with INS, 12 of these being in the Atlanta area.

Drug Enforcement Administration.—The Drug Enforcement is likely to suffer a minor reduction from 1981 to 1982 primarily because the domestic enforcement activity will decrease. Small reductions would therefore occur in a number of field offices. Between 1982 and 1983, DEA maintains 3,953 positions but its work-years decrease by 100, from 3,932 to 3,832. DEA has advised us that the changing enforcement picture and a pending reorganization will result in a number of staffing changes. However, for planning purposes, the proportionate reductions taken in work-years across the DEA programs could probably be applied to geographic areas as well.

Federal Prison System.—Despite an increasing prison population, the average staffing for 1982 is expected to be somewhat less than in 1981. Across the board reductions will result in fewer people charged to the salaries and expenses appropriation. This will be partially offset by receipt of funds and positions from the Department of Health and Human Services for the detention of Cuban and Haitian refugees.

For 1983, 57 new medical positions are added but this will have no positive impact on medical staffing because these positions are designated to replace medical personnel previously provided by the Public Health Service. The other position change is a reduction of 12 in the leisure program which is accompanied by a 20-work-year reduction. These changes are not geographically identified in the budget but they are spread across a number of institutions.

Although the budget reflects a decrease of 68 other work-years for the salaries and expenses appropriation, there are several developments that will change the geographic distribution of the workforce and which will probably increase it. The activation of a Federal Correctional Institution in Tucson, for example, will place 28 additional employees in Arizona. The burden of caring for a large Cuban population in Atlanta will necessitate the maintenance of that institution and a proposal is not under consideration to augment the current staff.

There is no change proposed in either positions of work-years for the National Institute of Corrections or the buildings and facilities appropriation.

Office of Justice Assistance, Research, and Statistics.—Employment in OJARS will continue to decline and additional reductions in force may be necessary. No field locations are involved because OJARS closed all of its regional offices several years ago.

Sincerely,

CHARLES R. NEILL,
Deputy Assistant Attorney General,
Office of the Controller,
Justice Management Division.

U.S. COMMISSION ON CIVIL RIGHTS

ANALYSIS OF POSITIONS

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	173	83	256
1982	168	80	248
1983	150	65	215
Number of positions filled:			
As of September 30, 1981	165	79	244
As of January 31, 1982	163	77	240
Projected September 30, 1982	156	74	230
Projected September 30, 1983	144	63	207

By the end of fiscal year 1982 we expect to lose two more positions in our regional offices through attrition. We anticipate a further reduction of 15 positions in the regions in fiscal year 1983. We anticipate closing two regional offices and reducing staff in several other regional offices. The Commissioners have not yet determined which regional offices will be closed. Neither are we certain on program decisions that will be made later this fiscal year and the latter will depend on program decisions as well as which regional offices are affected by attrition.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	752	2,664	[1] 3,416
1982	732	2,594	3,326
1983	732	2.546	3,278
Number of positions filled:			
As of September 30, 1981	746	2,670	3,416
As of January 31, 1982	730	2,557	3,287
Projected September 30, 1982	732	2,594	3,326
Projected September 30, 1983	732	2,546	3,278

[1] Total number of full-time permanent positions (taken from the detail of permanent positions chart—personnel summary—in the President's budget.)

NOTE.—Positions are authorized by the Office of Management and Budget as full-time equivalent.

LETTER FROM RONALD P. PASSERO

APRIL 15, 1982.

Mr. WARREN W. KANE,
Professional Staff Member, Committee on Appropriations,
U.S. Senate, Washington, D.C.

DEAR MR. KANE: The Equal Employment Opportunity Commission is not authorized positions by headquarters and field locations. However, at this time, we do anticipate a decrease of 76 positions from fiscal year 1981 to 1982 and 48 positions from fiscal year 1982 to 1983. The specific locations losing these positions will be determined at a later date.

Sincerely,

RONALD P. PASSERO,
Budget officer.

NOTE.—If we straight line the decreases in field positions for fiscal year 1982 among the 22 district offices it would be an average decrease of 3.45 per office.

In fiscal year 1983 the decrease from 82 to 83 among the 22 district offices would be 2.18 per office.

DEPARTMENT OF STATE

ANALYSIS OF POSITIONS

	Domestic			Overseas			
	Washington	Field	Total domestic	Americans	FSN	Total overseas	Total
Number of positions budgeted:							
Fiscal year:							
1981	5,553	985	6,538	4,153	5,708	9,861	16,399
1982	5,450	902	6,352	4,073	5,527	9,600	15,952
1983	5,518	899	6,417	4,159	5,590	9,749	16,166
Number of positions filled:							
September 30, 1981	5,209	919	6,128	4,055	5,600	9,655	15,783
January 31, 1982	5,280	860	6,140	4,046	5,587	9,633	15,773
September 30, 1982 (projected)	5,180	843	6,023	3,961	5,471	9,432	15,455
September 30, 1983 (projected)	5,250	855	6,105	4,119	5,461	9,580	15,685

Net position reductions 1981–82

Salaries and expenses	*Domestic field offices, domestic Americans*
U. S. mission to U.N. in New York (10)	−6
Passport agencies (CA):	
Boston	−2
Chicago	−2
Los Angeles	−1
Miami	−1
New Orleans	−1
New York	−5
Philadelphia	−1
San Francisco	−3
Seattle	−4
Stamford	−3
Total	−23
University study program	−18
Security field offices (SY):	
Boston	−1
Chicago	−2
Los Angeles	−1
Total	−4
Detail to other agencies (PER)	−4
Intergovernmental Personnel Act (PER)	−2
Total	−6
International Boundary and Water Commission United States and Mexico:	
Salaries and expenses	−18
Construction	−8
Total	−26

OVERSEAS POSTS

	Overseas		
	Americans	FSN	Total
AF			
Luanda, Angola		−3	−3
Libreville, Gabon		−2	−2
Banjul, Gambia		−1	−1
Accra, Ghana		−1	−1
Monrovia, Liberia		−1	−1
Antananarivo, Madagascar		−1	−1
Maputo, Mozambique	−1		−1
Freetown, Sierra Leone		−1	−1
Pretoria, South Africa		−1	−1
Dar-es-Salaam, Tanzania		−1	−1
Lome, Togo		−1	−1
Subtotal, AF	−1	−13	−14

OVERSEAS POSTS—Continued

	Overseas		
	Americans	FSN	Total
NEA			
Kabul, Afghanistan		−4	−4
New Delhi, India		−4	−4
Kuwait, Kuwait		−1	-1
Islamabad, Pakistan		−2	−2
Total, NEA		−11	−11
EA			
Canberra, Australia	−2	−1	−3
Rangoon, Burma	−1	−2	−3
Guangzhou, China	−1		−1
Hong Hong	−3	−4	−7
Jakarta, Indonesia	−3	−3	−6
Tokyo, Japan	−5	−3	−8
Fukuoka, Japan		−2	−2
Sapporo, Japan		−1	−1
Seoul, Korea	−1	−3	−4
Wellington, New Zealand		−1	−1
Port Moresby, Papua New Guinea		−1	−1
Bangkok, Thailand	−2	−3	−5
Udorn, Thailand	−1		−1
Subtotal, EA	−19	−24	−43
ARA			
Buenos Aires, Argentina	−3	−6	−9
Bridgetown Barbados	−1	−1	−2
La Paz, Bolivia	−1	−2	−3
Brasilia, Brazil		−4	−4
Santiago, Chile		−2	−2
Cali, Colombia	−3	−6	−9
Havana, Cuba	−1		−1
Santo Domingo, Dominican Republic		−3	−3
Guayaquil, Ecuador	−1	−1	−2
Guatemala City, Guatemala	−1	−1	−2
Kingston, Jamaica		−3	−3
Mexico City, Mexico	−6	−6	−12
Cuidad Jaurez, Mexico		−1	−1
Guadalajara, Mexico		−2	−2
Tijuana, Mexico		−1	−1
Panama City, Panama	−2	−2	−4
Asuncion, Paraguay	−1	−1	−2
Port of Spain, Trinidad	−1		−1
Montevideo, Uruguay	−1		−1
Caracas, Venezuela	−2		−2
Subtotal, ARA	−24	−42	−66

OVERSEAS POSTS—Continued

	Overseas		
	Americans	FSN	Total
EUR			
Antwerp, Belgium	-1	-3	-4
Sofia, Bulgaria		-2	-2
Halifax, Canada	-2	-4	-6
Montreal, Canada		-1	-1
Vancover, Canada	-1		-1
Winnipeg, Canada	-2	-3	-5
Nicosia, Cyprus	-1	-3	-4
Copenhagen, Denmark		-1	-1
Helsinki, Finland		-1	-1
Paris, France	-3		-3
Bordeaux, France	-1	-1	-2
Lyon, France	-1		-1
Strasbourg, France	-1	-2	-3
Athens, Greece		-8	-8
Thessaloniki, Greece	-3	-15	-18
Rome, Italy	-1	-6	-7
Milan, Italy		-2	-2
Naples, Italy		-1	-1
Palermo, Italy		-1	-1
Trieste, Italy	-1	-4	-5
Rotterdam, Netherlands	-3	-9	-12
Oslo, Norway		-2	-2
Krakow, Poland	-1		-1
Oporto, Portugal	-1	-9	-10
Madrid, Spain	-1	-1	-2
Ankara, Turkey	-1	-1	-2
Adana, Turkey	-2	-1	-3
Edinburgh, UK	-1	-8	-9
Hamilton, UK	-1		-1
Moscow, USSR	-3		-3
Belgrade, Yugoslavia		-1	-1
U.S. Mission European Communities	-1	-1	-2
U.S. Mission NATO	-2		-2
U.S. Mission OECD	-1		-1
Subtotal, EUR	-36	-91	-127

Net position reductions 1982–83

	Domestic field offices, domestic Americans
International boundary and Water Commission United States and Mexico:	
Construction	-3

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES, SUPREME COURT

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	325		325
1982	316		316
1983	320		320
Number of positions filled:			
As of September 30, 1981	298		298
As of January 31, 1982	298		298
Projected September 30, 1982	307		307
Projected September 30, 1983	311		311

CARE OF THE BUILDING AND GROUNDS, SUPREME COURT

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	33		33
1982	33		33
1983	33		33
Number of positions filled:			
As of September 30, 1981	27		27
As of January 31, 1982	30		30
Projected September 30, 1982	33		33
Projected September 30, 1983	33		33

THE JUDICIARY

(EXCLUSIVE OF THE SUPREME COURT)

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	1,120	12,752	13,872
1982	1,127	13,438	14,565
1983	1,149	14,443	15,592
Number of positions filled:			
As of September 30, 1981	1,098	11,993	13,091
As of January 31, 1982	1,097	12,230	13,327
Projected September 30, 1982	1,108	13,060	14,168
Projected September 30, 1983	1,129	14,048	15,177

STATE AND RELATED AGENCIES

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981			175
1982			165
1983			154
Number of positions filled:			
As of September 30, 1981			155
As of January 31, 1982			150
Projected September 30, 1982			165
Projected September 30, 1983			154

BOARD FOR INTERNATIONAL BROADCASTING

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	9	0	9
1982	8	0	8
1983	8	0	8
Number of positions filled:			
As of September 30, 1981	7	0	7
As of January 31, 1982	7	0	7
Projected September 30, 1982	8	0	8
Projected September 30, 1983	8	0	8

DEPARTMENT OF STATE

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981			2
1982			[1]2
1983			1
Number of positions filled:			
As of September 30, 1981			1
As of January 31, 1982			1
Projected September 30, 1982			1
Projected September 30, 1983			1

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[1] It was determined late last year that State could only afford to loan us one foreign service officer on a nonreimbursable basis. Therefore, when State Department FSC Sam Wise retired from the Department on January 1, 1982 we hired him on our payroll and thereafter we shall recieve one FSO. Mr. Herb Moller started with the Commission on January 4 and will be with us for 1 year on loan from State.

INTERNATIONAL COMMUNICATION AGENCY

	Washington	Other U.S. locations	Overseas	Total
Number of permanent positions authorized:[1]				
Fiscal year:				
1981	3,194	250	4,766	8,210
1982	3,215	255	[2] 4,760	8,230
1983	3,213	255	4,761	8,229
Number of permanent positions filled:[1]				
As of September 30, 1981	2,901	229	4,570	7,700
As of January 31, 1982	2,906	229	4,514	7,649
Projected September 30, 1982	3,024	243	4,493	7,760
Projected September 30, 1983	3,022	243	4,494	7,759

[1] For comparative purposes, the positions authorized and filled include position data for the international education and foreign language studies programs which the administration proposes to transfer from the Department of Education to USICA beginning in 1983 as follows: (1) Washington positions authorized: fiscal lyear 1981, 49; fiscal year 1982, 46; and fiscal year 1983, 45; (2) Washington positions filled: September 30, 1981, 46, January 31, 1982, 43; September 30, 1982, 43; September 30, 1983, 42.

[2] The reduction of six overseas positions in fiscal year 1982 results from a built-in decrease of 10 work-years for the junior officer training program, partially offset by an increase of four positions for the Broadcasting Service to add a site construction staff for the Liberia augmentation project.

JAPAN–UNITED STATES FRIENDSHIP COMMISSION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	2	1	3
1982	2	1	3
1983	2	1	3
Number of positions filled:			
As of September 30, 1981	2	1	3
As of January 31, 1982	2	1	3
Projected September 30, 1982	2	1	3
Projected September 30, 1983	2	1	3

DEPARTMENT OF TRANSPORTATION MARITIME ADMINISTRATION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	609	614	1,223
1982	559	479	1,038
1983	539	479	1,018
Number of positions filled:			
As of September 30, 1981	564	579	1,143
As of January 31, 1982	484	492	976
Projected September 30, 1982	478	455	933
Projected September 30, 1983	478	455	933

The following field locations lost positions during fiscal year 1982: Kings Point, N.Y.; New York, N.Y.; Wilmington, N.C.; New Orleans, La.; Long Beach, Calif.; San Francisco, Calif.; Seattle, Wash.; Cleveland, Ohio; and Tokyo, Japan.

FEDERAL COMMUNICATIONS COMMISSION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	1,430	574	2,004
1982	1,323	539	1,862
1983	1,153	449	1,602
Number of positions filled:			
As of September 30, 1981	1,429	548	1,977
As of January 31, 1982	1,397	538	1,935
Projected September 30, 1982	1,332	530	1,862
Projected September 30, 1983	1,162	440	1,602

FIELD POSITIONS LOSSES FISCAL YEARS 1982 AND 1983

Of the total reduction of 35 authorized positions for FCC field locations between fiscal years 1981 and 1982, one position is from our laboratory facility at Laurel, Md., six positions are from our Gettysburg, Pa. licensing facility, four are from our Pittsburgh, Pa. field office which will be closed, four are from our Cincinnati, Ohio field office which will be closed, and eight are from our Anchorage, Alaska monitoring station which will be closed. The final reduction of 12 positions will be made through attrition and the exact location of the reductions is therefore not presently known.

Of the total reduction of 90 authorized poisitions for FCC field locatons between fiscal years 1982 and 1983, 20 positions are from our laboratory facility at Laurel, Md. and 9 positions are from our Gettysburg, Pa. licensing facility. The reduction of the remaining 61 positions will be made across the board to the remaining field offices. However, no field office locations will be closed in fiscal year 1983.

FEDERAL MARITIME COMMISSION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	262	44	[1] 306
1982	262	44	306
1983	251	39	290
Number of positions filled:			
As of September 30, 1981	253	42	295
As of January 31, 1982	253	41	294
Projected September 30, 1982	254	41	295
Projected September 30, 1983	248	39	287

[1] These positions were reduced from 366 to 306 by OMB during fiscal year 1981.

The following is a list of field offices reflecting authorized positions in fiscal year 1983 less than that authorized in fiscal year 1981:

Field offices:	*Reduction in positions*
New York	1
Chicago	2
New Orleans	1
San Francisco	1
Total	5

FEDERAL TRADE COMMISSION

	Washington			Field			Total		
	FTP	FTE	Total	FTP	FTE	Total	FTP	FTE	Total
Number of workyears authorized:									
Fiscal year:									
1981	1,319	89	1,408	268	22	290	1,587	111	1,698
1982	1,131	62	1,193	249	13	262	1,380	75	1,455
1983	1,098	62	1,160	137	13	150	1,235	75	1,310
Number of positions filled:[1]									
As of September 30, 1981	1,179	105	1,284	288	34	322	1,467	139	1,606
As of January 31, 1982	1,148	111	1,259	267	37	304	1,415	148	1,563
Projected September 30, 1982	1,120	90	1,210	150	20	170	1,270	110	1,380
Projected September 30,1983	1,005	90	1,095	126	20	146	1,131	110	1,241

[1] Does not include employees on leave without pay or consultants.

NOTE.—While authorized field positions for fiscal 1982 and 1983 are less than authorized in fiscal 1981, the Commission has not yet allocated the reductions by office. Current plans are to close four of the present regional offices at the end of fiscal 1982.

U.S. INTERNATIONAL TRADE COMMISSION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	436	2	438
1982	436	2	438
1983	436	2	438
Number of positions filled:			
As of September 30, 1981	409	2	411
As of January 31, 1982	404	2	406
Projected September 30, 1982	426	2	428
Projected September 30, 1983	426	2	428

MARINE MAMMAL COMMISSION

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	9	0	9
1982	8	0	8
1983	7	0	7
Number of positions filled:			
As of September 30, 1981	9	0	9
As of January 31, 1982	8	0	8
Projected September 30, 1982	8	0	8
Projected September 30, 1983	7	0	7

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF THE U.S. TRADE REPRESENTATIVE

	Washington	Field	Total[1]
Number of positions authorized:			
Fiscal year:			
1981	113		
1982	113		
1983	113		
Number of positions filled:			
As of September 30, 1981	105		
As of January 31, 1982	110		
Projected September 30, 1982	113		
Projected September 30, 1983	113		

[1] Includes Geneva.

NOTE.—Positions are full-time permanent only.

SECURITIES AND EXCHANGE COMMISSION

	Washington	Field	Total
Number of permanent positions authorized:			
Fiscal year:			
1981	1,371	650	2,021
1982	1,378	643	2,021
1983	1,278	618	1,896
Number of permanent positions filled:			
As of September 30, 1981	1,288	640	1,928
As of January 31, 1982	1,253	595	1,848
Projected September 30, 1982	1,242	618	1,860
Projected September 30, 1983	1,179	586	1,765

FIELD OFFICES LOSING POSITIONS FROM 1981 AUTHORIZED

Office[1]	1981	1982	Difference 1981/1982	1983	Difference 1981/1983
New York	209	204	(5)	199	(10)
Boston	40	40		38	(2)
Atlanta	53	54	+1	51	(2)
Chicago	105	103	(2)	99	(6)
Ft. Worth	50	49	(1)	47	(3)
Los Angeles	99	98	(1)	94	(50)
Seattle	40	38	(2)	36	(4)
Total	596	586	(10)	564	(32)

[1] Denver regional office has no loss—1981, 54; 1982, 57; 1983, 54.

SMALL BUSINESS ADMINISTRATION

	Washington	Field[1]	Total
Number of positions authorized:			
Fiscal year:			
1981	865	3,693	4,558
1982	804	3,471	4,275
1983	731	3,305	4,036
Number of positions filled:			
As of September 30, 1981	804	3,471	4,275
As of January 31, 1982	810	3,443	4,253
Projected September 30, 1982	731	3,305	4,036
Projected September 30, 1983	721	3,095	3,816

[1] Includes post-of-duty employees.

The differences between the number of positions authorized are as follows:

	1981 authorized[1]	1982 authorized[2]	1983 authorized[3]
Boston	(1)	227	225
New York	(1)	400	381
Philadelphia	(1)	332	332
Atlanta	(1)	442	421
Chicago	(1)	436	416
Dallas	(1)	453	420
Kansas	(1)	257	235
Denver	(1)	208	205
San Francisco	(1)	350	331
Seattle	(1)	180	180
Total field	3,487	3,285	3,146
Post of duty	206	186	159
Total	3,693	3,471	3,305

[1] Distribution not available due to freeze on hiring.

[2] Reflects on-board positions as of October 1, 1981.

[3] Tenative distriburtion that is subject to change.

UNITED STATES METRIC BOARD

	Washington	Field	Total
Number of positions authorized:			
Fiscal year:			
1981	36		36
1982	34		34
1983	0		0
Number of positions filled:			
As of September 30, 1981	36		36
As of January 31, 1982	34		34
Projected September 30, 1982	17		17
Projected September 30, 1983	0		0

CONCLUSION OF HEARINGS

Senator Weicker. This concludes the hearings on the fiscal year 1983 appropriation requests. We will now recess at the call of the Chair.

[Whereupon, at 10:40 a.m., Thursday, May 27, the hearings were concluded, and the subcommittee was recessed, subject to the call of the Chair.]

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